

January 18, 1996

VIA UPS OVERNIGHT

T. C. Stone, Secretary-Treasurer  
Teamsters Local Union 745  
1007 Jonelle Street  
Dallas, TX 75217

Jimmy L. Walker  
Route 3, Box 3141  
Ben Wheeler, TX 75754

Joe C. Thompson  
2417 West Rochelle  
Irving, TX 75062

Re: Election Office Case No. E-020-LU745-EOH  
Eligibility of Joe C. Thompson to Run for Delegate  
Eligibility of Jimmy L. Walker to Run for Alternate

Gentlemen:

By letters received by the Election Officer on January 8, 1996, T. C. Stone protested the eligibility of Joe Thompson and Jimmy Walker to run for delegate and alternate delegate, respectively, to the IBT convention because, he contends, both have failed to pay their dues in a timely manner for the 24 month prior to their respective nominations.

In order to be eligible to run for delegate or alternate delegate to the International convention, a member must be in continuous good standing with his local union, with his dues paid to the local union for a period of 24 consecutive months prior to the month of nomination with no interruption in active membership due to suspensions, expulsions, withdrawals, transfers or failure to pay fines or assessments and be employed at the craft within the jurisdiction of the local union for a period of 24 consecutive months prior to the month of nomination. *Rules for the 1995-1996 IBT International Union Delegate and Officer Election* (“*Rules*”), Article VII, Section 1(a)(1) and (2).

### Eligibility of Joe C. Thompson

According to the TITAN system, Mr. Thompson paid no dues for December 1994 and January 1995. On December 16, 1994, an entry was made in the system which advanced Mr. Thompson's paid-through status by two months without a corresponding posting of dues. This entry by the Local Union had the effect of waiving Mr. Thompson's dues for December.

Article VII, Section 2(d) of the *Rules* provides:

The requirements of continuous good standing and working in the jurisdiction may be excused or modified in the case of any officer, employee or member on leave of absence granted with the approval of the Local Union Executive Board on a nondiscriminatory basis.

The investigation disclosed that in or about late October 1994, Mr. Thompson requested that his local union waive his dues due to illness, in accordance with a long-standing practice in his local union. The local union executive board approved this request. As a result, Mr. Thompson paid no dues for December 1994 or January 1995, and the local union made an entry in the TITAN system to indicate that Mr. Thompson was not in arrears for this lapse.

While a local union is free to waive the dues of members who are ill or incapacitated, the exception to eligibility requirements in Article VII, Section 2(e) of the *Rules* is only applicable when the local union executive board issues a formal leave of absence on a non-discriminatory basis. Waiver of dues, even if endorsed by the executive board, is insufficient to trigger this exception. See Sadler, E-074-LU745-SOU/P-113-LU745-SOU (December 17, 1990), aff'd, 91 - Elec. App. - 31 (IA) (January 9, 1991). As a result, Mr. Thompson is ineligible to run for delegate.

### Eligibility of Jimmy L. Walker

According to the TITAN system, Mr. Walker's February and March 1994 dues were paid late on April 18, 1994. The investigation into these late payments disclosed that Mr. Walker was fired from his position with Consolidated Freightways on December 16, 1993. He filed a grievance which resulted in his reinstatement with back pay on March 1, 1994. Mr. Walker was on dues checkoff but had no earnings in February or March of 1994 from which dues could be deducted.<sup>1</sup> Mr. Walker returned to work on March 3, 1994 and received his first back payment on March 23, 1994.<sup>2</sup>

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<sup>1</sup>Mr. Walker's January dues were paid in advance by his employer.

<sup>2</sup>Mr. Walker received his remaining back pay on June 25, 1994.

Article VII, Section 2(b) of the *Rules* provides:

The active employment at the craft requirement may be excused by unemployment if, for the period of unemployment, the member was actively seeking and available for employment in the craft and not working outside the craft during such period of unemployment, or by active pursuit of an unresolved grievance or other legal action challenging suspension or discharge.

In addition, Article X, Section 5(c) of the IBT Constitution states:

Payment of such dues after their due date shall not restore good standing status for such month or months in computing the continuous good standing required by Article II, Section 4 of this Constitution as a condition of eligibility for office. However, a member on dues checkoff whose employer fails to make a proper deduction during any month in which the member has earnings from which the dues could have been deducted, shall not lose good standing status for that month.

Since Mr. Walker was awarded back pay as a result of his grievance, he is deemed to have had income from which dues could have been deducted in February and March 1994. Since he was on dues checkoff, it was the responsibility of the employer to remit these funds to the local union. When Mr. Walker received his partial award of back pay, he paid his overdue balance within 30 days, as required by Article X, Section 5(c) of the IBT Constitution. As a result, Mr. Walker is eligible to run for delegate.

Accordingly, it is the determination of the Election Officer that Mr. Thompson is **not** eligible to run for delegate or alternate delegate and that Mr. Walker is eligible to run for delegate or alternate delegate.

Any interested party not satisfied with this determination may request a hearing before the Election Appeals Master within one day of receipt of this letter. The parties are reminded that, absent extraordinary circumstances, no party may rely upon evidence that was not presented to the Office of the Election Officer in any such appeal. Requests for a hearing shall be made in writing and shall be served on:

Kenneth Conboy, Esq.  
Latham and Watkins  
885 Third Avenue, Suite 1000  
New York, NY 10022  
Fax (212) 751-4864

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Copies of the request for hearing must be served on the parties listed above as well as upon the Election Officer, 400 North Capitol Street, Suite 855, Washington, DC 20001, Facsimile (202) 624-3525. A copy of the protest must accompany the request for a hearing.

Sincerely,

Barbara Zack Quindel  
Election Officer

cc: Kenneth Conboy, Election Appeals Master  
Dolores C. Hall, Regional Coordinator