

March 12, 1996

VIA UPS OVERNIGHT

William E. Stringlers, Secretary-Treasurer
Teamsters Local Union 512
1210 Lane Avenue, N.
Jacksonville, FL 32254

Terry McIntyre
Route 2, Box 244-1
MacClenny, FL 32063

Lon Hawkins
4452 Tumblewood Road
Middleburg, FL 32068

Mike Sass
144 S. Fletcher Avenue
Fernandina, FL 32034

Joseph Martinez
P.O. Box 11623
Jacksonville, FL 32239

Ronnie L. Greene, President
Teamsters Local Union 512
1210 Lane Avenue, N.
Jacksonville, FL 32254

Re: Election Office Case No. E-113-LU512-EOH

Gentlemen:

On February 17, 1996 Local Union 512 held its nomination meeting at which time Jeff Bledsoe, Mark Watkins, Larry Smith, Terry McIntyre, Robert Wingate, Lon Hawkins, Theresa Batura, Mike Sass, Ryan Sarver, and Joseph Martinez were nominated to run for delegate to the International convention. At the same meeting, Robert Wingate nominated or seconded the nomination of several candidates. On February 19, 1996, the Election Officer received a timely protest from William Striglers. Mr. Striglers alleges that these individuals do not satisfy the criteria of eligibility required of candidates, nominators, and seconders required by the *Rules for the IBT 1995-1996 International Union Delegate and Officer Election* (“Rules”).

Following the filing of this protest, Ms. Batura, and Messrs. Watkins, Bledsoe, Sarver, and Smith informed the Election Officer that they had withdrawn their nomination acceptances and ended

their candidacies. Subsequently, the protester informed the Election Officer that he wished to withdraw his allegations concerning the eligibility of Ms. Batura, Messrs. Watkins, Bledsoe, Sarver, Wingate, Smith, Keith Arnold, and Antonio Santos.¹ The Election Officer, finding that the withdrawal effectuates the purpose of the *Rules*, permits the requested portions of the protest to be WITHDRAWN.

Article VII, Section 1(a) of the *Rules* provides that to be eligible to run for any Convention delegate, alternate delegate or International Officer position, one must:

- (1) Be a member in continuous good standing of the Local Union, with one's dues paid to the Local Union for a period of twenty-four (24) consecutive months prior to the month of nomination for said position with no interruptions in active membership due to suspensions, expulsions, withdrawals, transfers or failure to pay fines or assessments;
- (2) Be employed at the craft within the jurisdiction of the Local Union for a period of twenty-four (24) consecutive months prior to the month of nomination; and
- (3) Be eligible to hold office if elected.

In addition, Article X, Section 5(c) of the IBT Constitution reads, in pertinent part:

[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. In such an event, the Local Union shall notify the member of his employer's failure and payment shall be made by the member within thirty (30) days of said notice in order to retain good standing status.

Eligibility of Terry McIntyre

The TITAN report indicates that Mr. McIntyre's checkoff dues for April and August of 1994 and January of 1996 were posted late to the system.

The investigation revealed that Mr. McIntyre had sufficient earnings from which dues could have been deducted during the months in question. Thus, Mr. McIntyre's good standing is protected by Article X, Section 5(c) of the IBT Constitution.

¹Messrs. Arnold and Santos were not named in Mr. Stringlers' original protest.

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Because the delay in remitting Mr. McIntyre's dues is attributable to a late employer payment or late posting by the local union, it is the determination of the Election Officer that Mr. McIntyre is eligible to run for delegate to the International convention.

Eligibility of Lon Hawkins

Mr. Hawkins' TITAN record indicates that he was suspended from union membership in October 1993. This suspension lasted until February 1994, the first month relevant to an analysis of Mr. Hawkins' eligibility. The local union suspended Mr. Hawkins after it failed to receive his checkoff dues payments from UPS, Mr. Hawkins' employer, for September and October 1993. The system notation indicating the end of Mr. Hawkins' suspension was entered on February 22, 1994, but dated to take effect in March 1994. Under the "General Remarks" field on

Mr. Hawkins' record, the comment "SUS. TOO EARLY.CO.AT FAUL" has been entered.

The investigation revealed that Mr. Hawkins had sufficient earnings from which dues could be deducted in the two months prior to his suspension, but that payroll irregularities which occurred in both months may have prevented his employer from deducting his dues. After the local union received UPS' remittance for October in mid-October, Mr. Hawkins was placed on suspension.

The reason for this suspension is contested. Mr. Hawkins states he was unaware of the suspension until he was prevented from participating in a local union function. At that time, he contends, he immediately requested that he be reinstated. He believes he was suspended because the local union failed to receive two consecutive monthly payments from UPS, when UPS had failed to deduct the money from his earnings. Such action, he argues, was improper because the International Constitution, at Article X, Section 5(c), stipulates that a member be automatically suspended only after a three-month arrearage. According to Mr. Hawkins, he was told the suspension was not his fault when he brought it to the attention of the local union, and was also told that a notation would be entered into his TITAN record indicating he had been suspended because of employer error.

Diana Petty, Local Union 512's insurance secretary, states that she recalls that Mr. Hawkins, prior to his suspension, stated that he wished to get out of the union. In February 1994, according to Ms. Petty, Mr. Hawkins requested that he be readmitted to union membership. Ms. Petty does not know why the notation in the "General Comments" field in Mr. Hawkins' record was entered. Ms. Petty states that the local union did not send Mr. Hawkins notice that UPS had failed to remit his dues for September or October 1993 or that he had been suspended.

Ronnie Greene, president of the local union, states that the local union's TITAN operator at the time of Mr. Hawkins' suspension sometimes put members on suspension after only two months of delinquent dues payments instead of the three stipulated in the IBT Constitution. He also states that, if a member wished to leave local union membership, it was the practice of the local union to suspend them.

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There is no evidence that Mr. Hawkins attempted to stop his employer from checking off his dues. Mr. Hawkins' checkoff authorization was signed in 1982. Mr. Hawkins states that when he asked that his suspension be lifted he was not given a new checkoff authorization to sign. When a copy of Mr. Hawkins' checkoff authorization was requested from the local union, it provided a copy of the card signed in 1982. When Mr. Hawkins was returned from suspension, he was not required to pay a reinitiation fee.

Documentary evidence indicates that the local union billed UPS for Mr. Hawkins' dues in September and October 1993. The employer, however failed to remit these dues. During Mr. Hawkins suspension, the local union ceased billing UPS for these dues. According to its practice, UPS continued to deduct dues from Mr. Hawkins' earnings but, when his name did not appear on the bill from the local union, the money was refunded in a subsequent paycheck. Mr. Hawkins states that he never suspected he was suspended until February 1994 because his pay statements indicated that dues were being deducted.

The preponderance of the evidence presented in this protest indicates that Mr. Hawkins was improperly suspended in October 1994. According to Mr. Greene, the past TITAN operator did overzealously suspend members who were two months in arrears. The record indicates that UPS failed to remit Mr. Hawkins' dues for two months and that Mr. Hawkins was suspended near the end of the second month. While no one at the local union can explain why the statement "SUS. TOO EARLY.CO.AT FAUL" appears on Mr. Hawkins record, it is reasonable to accept this as a notation made by the TITAN operator which corroborates Mr. Hawkins' contention that his suspension was not voluntary or proper under the IBT Constitution. The fact that Mr. Hawkins was not required to pay the arrearage or any fines or reinitiation fee lends further credibility to his assertions.

Further, the evidence indicates that Mr. Hawkins was returned from suspension in the month after he requested the suspension be lifted. According to Local Union 512's bookkeeper, Mr. Hawkins made his request after UPS had made its remittance for February. As a result, while the end of his suspension was recorded in February 1994, his dues obligation was not dated to resume until March 1994. Mr. Hawkins had sufficient earnings in February 1994 from which his dues could have been deducted. He was not returned from suspension until March 1994 because of a bookkeeping policy of the local union. As a result, Mr. Hawkins will not be penalized because of the delay between when he requested the lifting of his suspension and when the local union set the suspension to end.

Accordingly, it is the determination of the Election Officer that Mr. Hawkins is eligible to run for delegate or alternate delegate to the International convention.

Eligibility of Mike Sass

Mr. Sass' TITAN record indicates that he was a steward from February 1994 through June 1995. During that time, the record reflects several late dues postings. After the end of his stewardship, his record reflects late checkoff dues posting for July 1995 through January 1996.

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The investigation revealed that, while a steward, Mr. Sass' dues were paid by the local union. According to Local Union 512's TITAN operator, the late payment of Mr. Sass' steward's dues occurred because of procedural delays in the local union office. As a result, these late postings do not affect Mr. Sass' good standing status.

After his term as steward expired, Mr. Sass returned to checkoff-dues-payer status with UPS, his employer, who already had a valid checkoff authorization for him. Mr. Sass was put on the dues pre-bill from the local union to UPS on July 1, 1995. His employer, however, did not begin to check off his dues until August 1995. Mr. Sass had sufficient earnings from which his dues could have been deducted in July 1995. The failure to remit his July 1995 dues in July resulted from employer error.

Accordingly, it is the determination of the Election Officer that Mr. Sass is eligible to run for delegate or alternate delegate to the International convention.

Eligibility of Joseph Martinez

The protester alleges that Mr. Martinez was terminated from his job and, thus, is not working at a craft under the jurisdiction of the local union as required by the **Rules**. The investigation disclosed that Mr. Martinez was terminated by his employer on May 22, 1995. Prior to that time, he had been on dues checkoff, and his dues were paid through May 1995. Mr. Martinez filed a grievance regarding this termination. A hearing was held in this matter on February 1, 1996. As of the date of this decision, a ruling has yet to be issued as a result of this hearing.

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

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.

Presently, a decision in Mr. Martinez's grievance is still pending. As a result, his discharge in May 1995 does not affect his eligibility.

Accordingly, it is the determination of the Election Officer that Mr. Martinez is eligible to run for delegate or alternate delegate to the International convention.

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:

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

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, D.C. 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
J. Griffin Morgan, Regional Coordinator