

September 27, 1995

**VIA UPS OVERNIGHT**

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Chicago, IL 60603

**Re: Election Office Case Nos. P-034-LU41-SCE  
P-044-LU41-SCE  
P-055-LU41-SCE**

Gentlemen:

Related pre-election protests have been filed pursuant to Article XIII, Section 2(a) of the ***Rules for the 1995-96 IBT International Union Delegate and Officer Election Rules (“Rules”)*** by Jim Buck, Wesley Epperson, and Paul Heiman, all members of Local Union 41.<sup>1</sup>

Each protester alleges that Local Union 41 unlawfully permitted Philip E. Young, R. V. Durham, William Hogan, C. Sam Theodus, and James P. Hoffa to campaign for International office and against the reelection of General President Ron Carey at a Saturday night dinner that was part of a weekend stewards’ seminar held by Local Union 41 on January 7-8, 1995. Protesters further allege that the campaign activity was supported by funds from Local Unions 41, 337, 391, 407 and 714. The Election Officer has consolidated these protests because they involve similar facts and legal issues.

Local Union 41 contends that it held the stewards’ seminar to provide training to shop stewards and denies that any campaign activity occurred there. The Local Union states that it invited all candidates for general president, Mr. Carey, Mr. Hoffa and Mr. Theodus, as well as Mr. Hogan, candidate for International office, and Mr. Durham to speak to the members at the seminar dinner held Saturday evening, January 7, 1995. Mr. Carey declined to attend. Local Union 41 President Philip (“Phil”) E. Young introduced the speakers at the seminar dinner. The Local Union admits it provided each guest with dinner Saturday evening, but denies that it paid travel or lodging expenses for any candidate to attend the dinner.

R. V. Durham, President of Local Union 391 and Joint Council 9, responds to the protest that he is not a candidate for International office and did not campaign or endorse any candidate while appearing at the Local Union 41 stewards’ seminar dinner. He acknowledges that he criticized the Carey administration during his dinner speech, but maintains that his criticisms are protected by the free speech provisions of the Labor-Management and Reporting Disclosure Act, as amended.

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<sup>1</sup>These “reach-back” protests were filed within the 30-day period following the final promulgation of the ***Rules*** on April 24, 1995, and alleges violations occurring prior to the issuance of the ***Rules***. The ***Rules***, at Article XIV, Section 2(a), state:

Protests regarding violations of the [Labor-Management Reporting and Disclosure Act, as amended] (including violations of the IBT Constitution) allegedly occurring prior to the date of issuance of the ***Rules*** and protests regarding any conduct allegedly occurring within the first twenty-eight (28) days after issuance of the ***Rules*** must be filed within thirty (30) days of the date of issuance, or such protests shall be waived.

C. Sam Theodus, International vice president-at-large and president of Local Union 407 denies that his speech at the stewards' seminar dinner was campaigning because he did not ask for support for his candidacy for general president. He submitted documentation that he paid his own way to appear at the seminar dinner.

James P. Hoffa responds that he used his own funds, not Union funds, to appear at the stewards' seminar. Mr. Hoffa further contends that Mr. Carey declined to attend the seminar dinner and the "robust debate" about union issues occurring there was lawful.

Regional Coordinator Bruce Boyens investigated these protests.

The investigation by the Election Officer included a review of notes and text submitted by Mr. Durham and Mr. Theodus of their speeches at the stewards' seminar dinner as well as a review of extensive excerpts from all of the dinner speeches as reported in the February 1995 issue of *The Labor Times*, a monthly labor newspaper published in Kansas City, Missouri.<sup>2</sup>

Local 41 President Phil Young introduced the first dinner speaker, Mr. Theodus, as "one of the few people that's got the courage to stand up and tell anybody like it is." Mr. Theodus's speech described the financial decline of the union, and its decreasing clout and political strength. He encouraged Local Union 41 stewards to move beyond "narrow . . . self-interests" and to organize union members to fight for economic rights, "justice and equal opportunity."

Mr. Young introduced the next speaker, James P. Hoffa, as "like a lot of the rest of . . . very interested in getting this thing on the right track." Mr. Hoffa also criticized the Carey administration, complaining about its financial mismanagement, lack of organizing of new members, wasteful public relations efforts, and overly centralized administration. Mr. Hoffa reminded the audience that only 28% of the membership voted in the last International officer election, encouraging the stewards to get involved in the union and work to get a larger turnout in the upcoming elections.

After Mr. Hoffa spoke and in reference to his remarks, Mr. Young told the audience, "Amen . . . We've got problems but we know how to solve them. We've got the people that know how to solve them."

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<sup>2</sup>In P-041-LU41-EOH, et seq. the Election Officer found that Local Union 41's distribution of the February 1995 *Labor Times* article on the stewards' seminar dinner did not violate the **Rules**.

The next speaker, R. V. Durham, accused the current IBT leadership of “destroy[ing] the very fabric of [the] Union” by dismantling the Area Conferences, merging Local Unions and harassing and intimidating Local Union officers who disagree with the president. Mr. Durham urged the stewards to become involved in the union locally and nationally.

In the final speech, Mr. Hogan complained about the Carey administration’s proposal to raise dues, and its excessive public relations efforts. Mr. Hogan also encouraged greater involvement in the union.

Article VIII, Section 5 governs candidate access to membership meetings. Local Unions do not have to permit candidates to speak at membership meetings for the purpose of campaigning. However, if a candidate is permitted to speak, equal access must be provided to other candidates running for the position for which such campaigning was permitted.

The Election Officer has previously determined that Mr. Theodus became a candidate on December 27, 1994. Jacob, Case No. P-071-LU391-EOH (September 7, 1995). Mr. Hoffa became a candidate in March 1994. Crawley, Case No. P-027-LU988-PNJ *et seq.* (August 23, 1995). Mr. Carey became a candidate in October 1994. Martin, P-010-IBT-PNJ *et seq.* (August 17, 1995). Mr. Durham is not a candidate. Jacob, *supra*.

Mr. Hogan filed a Campaign Contribution and Expenditure Report (“CCER”) for the period January 1, 1992 to May 20, 1995, indicating he accepted a campaign contribution in May 1992.<sup>3</sup> Accordingly, Mr. Hogan was a candidate for International office when he delivered the speech to the stewards’ seminar in this case.

Mr. Young filed a CCER for the same period. He accepted his first reported contribution on May 10, 1995. Therefore, Mr. Young was not a candidate in January 1995 when the stewards’ seminar was held.

The uncontroverted evidence demonstrates that all of the candidates for general president, including Mr. Carey, were invited to speak at the Local Union 41 stewards’ seminar dinner. Thus, the content of the speeches of the candidates for International office at the dinner, even if determined to be campaigning for International office or against the reelection of the Mr. Carey, would not constitute a violation of the **Rules**. Since Mr. Carey was provided an opportunity to speak at the dinner but declined to appear, Local Union 41 has not violated Article VIII, Section 5 of the **Rules**.

There is no evidence that Mr. Durham, Mr. Hogan, Mr. Theodus, or Mr. Hoffa used union funds to attend the stewards’ seminar dinner.

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<sup>3</sup>The CCER did not indicate which office Mr. Hogan seeks.

Accordingly, the protests are DENIED.

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.  
Mudge, Rose, Guthrie, Alexander & Ferdon  
180 Maiden Lane, 36th Floor  
New York, NY 10038  
Fax (212) 248-2655

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  
Bruce Boyens, Regional Coordinator  
Michael D. Gordon, Regional Coordinator