

September 7, 1995

VIA UPS OVERNIGHT

Jerry Halberg
P.O. Box 78213
Seattle, WA 98178

Robert A. Hasegawa
Teamsters Local Union 174
553 John Street
Seattle, WA 98109

Ken Paff
Teamsters for a Democratic Union
7437 Michigan Avenue
Detroit, MI 48210

James P. Hoffa
2593 Hounds Chase
Troy, MI 48098

Re: Election Office Case No. P-089-LU174-PNW

Gentlemen:

This pre-election protest was filed pursuant to Article XIV, Section 2(b) of the *Rules for the 1995-96 IBT International Union Delegate and Officer Election* (“*Rules*”) by Jerry Halberg, a member of Local Union 174. The protester alleges that Local Union 174 Secretary-Treasurer Robert A. Hasegawa improperly distributed campaign literature in the Local Union hall consisting of a flyer opposing the candidacy of James P. Hoffa for general president. The protester also alleges that Teamsters for a Democratic Union (“TDU”) made an unlawful campaign contribution by producing the flyer.

The protest was investigated by Regional Coordinator Christine M. Mrak.

On April 27, 1995, while in the office of Secretary-Treasurer Hasegawa at the Local Union 174 hall, the protester observed displayed on a table in Mr. Hasegawa’s office, a stack of about 25 “anti-Hoffa” flyers including the address and the phone number of TDU and a description of the organization. The protester took one flyer and provided a copy to the Election Officer. The protester does not allege that the flyer has been displayed or distributed other than as described above.

Secretary-Treasurer Mr. Hasegawa responded to the protest on behalf of Local Union 174. He states that he saw about three or four copies of an anti-Hoffa flyer were on a table in his office, which is enclosed separately from the main Local Union 174 office where

members pay their dues and conduct other business. He explains that he uses the table for magazines, petitions, leaflets, and other documents on a variety of topics, some directly involving the Union, and some pertaining to political, social, and community issues. Mr. Hasegawa states that a Local Union member left some of the anti-Hoffa flyers in his office but he does not know who put the flyers on his table. Mr. Hasegawa states that the Local Union does not permit campaigning inside of the Local Union hall. He states that at a recent membership meeting some Local Union members attempted to distribute the anti-Hoffa flyer inside the Local Union hall and Mr. Hasegawa asked them to stay on the sidewalk outside of the hall.

The flyer is headed by a drawing of persons holding signs reading: "Our Union is Not a Family Business!;" "Hoffa = Corruption;" and "Junior: Go Back to Your Law Firm!" The text below the drawing is headed by the question: "Who is Hoffa Junior?" The succeeding paragraphs are followed by bold headings reading: "Junior has never worked a day in his life as a Teamster;" "Junior doesn't know of any corruption in the Teamsters;" etc. Each heading is followed by an explanation of the allegation. The flyer clearly attacks the candidacy of Mr. Hoffa by referring to it in derogatory terms.

Article VIII, Section 5(a)(4) reads:

A Local Union shall not discriminate or permit discrimination in favor or against any candidate in conjunction with its meetings or otherwise. This requirement shall apply not only to formal presentations by or on behalf of candidates but also to informal campaign activities, such as . . . literature distribution tables, etc.

In determining whether a Local Union or its officers violated Article VIII, Section 5(a)(4) of the **Rules**, the Election Officer must first determine if anyone attacked or supported by the literature was a "candidate" at the time of its distribution. The Election Officer has determined that Mr. Hoffa became a candidate for general president in March 1994, prior to the distribution alleged in this protest. See, Crawley, P-027-LU988-PNJ et seq. (August 23, 1995).

The anti-Hoffa flyer placed on the literature distribution table in Mr. Hasegawa's office is campaign literature attacking Mr. Hoffa's candidacy. Mr. Hasegawa permitted the flyer to be distributed on the literature table in his office, contrary to the policy he has articulated of no campaigning outside the Local Union hall. By such action, the Local Union made available to Union members in the Local Union facilities multiple copies of the flyer.

Such an exception to the Local Union's policy against campaigning inside the Local Union hall was made only for literature critical of Mr. Hoffa's candidacy. Accordingly, by displaying on a literature distribution table in the secretary-treasurer's office literature opposing the candidacy of Mr. Hoffa, Local Union 174 has violated the **Rules** by discriminating against Mr. Hoffa's candidacy.

The protest also raises additional issues. The protester has alleged, and TDU does not dispute, that it produced the flyer at issue here. The protester alleges that by producing the flyer, TDU made an unlawful campaign contribution. The protester has not submitted any

evidence that TDU's production of the flyer is in violation of the **Rules** and there is no violation apparent from the flyer itself.¹ The protester also alleges that TDU is improperly involved in Local Union officer elections. This aspect of the protest is not within the jurisdiction of the Election Officer, whose authority includes the election of delegates to the 1996 IBT International convention, and the election of IBT International officers, but does not extend to the election of Local Union officers. See, United States v. IBT, 88 CIV. 4486 (DNE), slip op. at 13 (S.D.N.Y. March 14, 1989).

The protest is GRANTED as to the distribution by Local Union 174 of the flyer opposing Mr. Hoffa's candidacy and DENIED in all other respects.

When the Election Officer determines that the **Rules** have been violated, she "may take whatever remedial action is appropriate." Article XIV, Section 4. In fashioning the appropriate remedy, the Election Officer views the nature and seriousness of the violation as well as its potential for interfering with the election process.

Local Union 174 has discriminated against Mr. Hoffa's candidacy. To remedy the violation here, the Election Officer directs Local Union 174, within seven (7) days of this decision, to notify Mr. Hoffa in writing by duplicating the notice described below; and that it will, upon timely request by Mr. Hoffa, make available for distribution on the literature distribution table in Mr. Hasegawa's office, campaign literature similar to that made available by the Secretary-Treasurer as described in this decision--specifically, 25 copies of a single-page flyer that may be two-sided, but shall be no larger than 8½ by 14 inches. The notice shall be mailed to Mr. Hoffa by first-class mail. Mr. Hoffa shall have two weeks from the date he receives the notice to provide campaign literature to Local Union 174. The Election Officer further directs Local Union 174 to make available for distribution the literature received in response to the notice by placing such literature on the table in the office of the Secretary-Treasurer for at least fourteen (14) consecutive days.

¹The **Rules** permit contributions from independent committees provided the committee itself is financed exclusively from contributions/sources permitted under the **Rules**. See Definitions at pp. vii - ix. The Election Officer has ruled that there is no evidence TDU has made or accepted any contributions prohibited by the **Rules**. See, Halberg, et al., Case No. P-19-LU174-PNW et seq. (September 6, 1995).

Within two (2) days of mailing the notice, the principal officer of Local Union 174 shall file an affidavit with the Election Officer demonstrating that notice consistent with this directive has been sent. In the event that Mr. Hoffa submits campaign literature for distribution at Local Union 174, the Local Union 174 principal officer shall file an affidavit demonstrating that Local Union 174 has made such campaign literature available by placing such literature on a table in the office of the Local Union 174 secretary-treasurer for at least fourteen (14) consecutive days, and appending a copy of the literature made available.

If any additional campaign literature is permitted to be placed on the table in the office of the secretary-treasurer, all candidates subject to the **Rules** should be afforded access, in a non-discriminatory manner, to place campaign literature on the table and shall be notified by first-class mail that the table in the office of the secretary-treasurer is available for the distribution of the literature.

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
Christine M. Mrak, Regional Coordinator

RE: NOTICE TO JAMES P. HOFFA

The ***Rules for the 1995-96 IBT International Union Delegate and Officer Election*** prohibit Local Unions from discriminating or permitting discrimination against any candidate for office in the 1995-96 International Union delegate and officer elections in connection with distribution of campaign literature.

Local Union 174 has violated this provision by allowing distribution in the Local Union 174 secretary-treasurer's office a flyer opposing your candidacy for general president after articulating a policy of no-campaigning in the Local Union hall. Local Union 174 will make available literature on your behalf on the table in the Local Union 174 Secretary-Treasurer's office for a minimum of 14 consecutive days. If you request such distribution, please provide within 14 days to the undersigned 25 copies of a campaign flyer which may be two-sided but no larger than 8½ by 14 inches and Local Union 174 will place the flyer on a table in the office of its Secretary-Treasurer for 14 consecutive days.

Signed:

Robert A. Hasegawa
Secretary-Treasurer