

November 6, 1996

VIA UPS OVERNIGHT

Joel Sosinsky
216 W. 14th Street
New York, NY 10011

Jon Rabine, President
Teamsters Joint Council 28
553 John Street
Seattle, WA 98109

James P. Hoffa
2593 Hounds Chase
Troy, MI 48098

Ron Carey Campaign
c/o Nathaniel Charny
Cohen, Weiss & Simon
330 W. 42nd Street
New York, NY 10036

Bradley T. Raymond
Finkel, Whitefield, Selik, Raymond,
Ferrara & Feldman, P.C.
32300 Northwestern Highway, Suite 200
Farmington Hills, MI 48334

Re: Election Office Case No. P-1169-JC28-PNW

Gentlemen:

A pre-election protest was filed pursuant to Article XIV, Section 2(b) of the *Rules for the 1995-1996 IBT International Union Delegate and Officer Election ("Rules")* by Joel Sosinsky, a member of Local Union 237. Mr. Sosinsky alleges that contents appearing in the October 1996 issue of *Washington Teamster*, the official publication of Joint Council 28, amounts to campaigning, in violation of the *Rules*. Mr. Sosinsky also alleges that Joint Council 28 has distributed the protested publication to more local unions than customarily receive it in order to widen the impact of the campaign-related content, in violation of the *Rules*.

Regional Coordinator Christine M. Mrak investigated the protest.

Specifically, the protester objects to an article appearing on the first page of the October 1996 issue of *Washington Teamster* entitled, "IBT General Presidential candidate Jim Hoffa in Seattle October 1st for debate; IBT General President Ron Carey fails to attend." The protester claims that the article amounts to campaigning on behalf of Mr. Hoffa and reports on an

Joel Sosinsky

November 6, 1996

Page 2

event that was scheduled to coincide with a meeting of the IBT General Executive Board in Washington, D.C. to ensure that Mr. Carey would be unable to attend.

Article VIII, Section 8(a) of the *Rules* states that a union-financed publication or communication may not be “used to support or attack any candidate or the candidacy of any person.” In reviewing union-financed communications for improper campaign content, the Election Officer looks to the tone, content and timing of the publication. Martin, P-010-IBT-PNJ et al. (August 17, 1995) (decision on remand), aff’d, 95 - Elec. App. - 18 (KC) (October 2, 1995). The Election Officer also considers the context in which the communication appeared.

Pursuant to Article VIII, Section 8(e) of the *Rules*, the content of the protested publication was reviewed prior to its publication. It was determined that the article constituted an objective recounting of an important event that neither attacks nor supports the candidacy of Mr. Hoffa or Mr. Carey. Under the tone, content and timing test, the article does not constitute impermissible campaigning under the *Rules*. It is the determination of the Election Officer, therefore, that the protested article does not violate the *Rules*.

Mr. Sosinsky contends that the fact that the joint council scheduled the debate on the same date as a General Executive Board meeting ensured that Mr. Carey would be unable to attend the event. He states that this scheduling was intended to provide the joint council with an argument that the protested article is considered proper reporting instead of “electioneering.”

This argument is without merit. As the Election Officer has previously stated:

Article VIII, Section 5(a) specifically allows local unions to provide candidates an opportunity to address the members during a meeting, so long as all candidates have sufficient advance notice and are treated equally. The Department of Labor regulations also prohibit the use of union funds for campaigning, but state that “it would not be improper for a union to sponsor a debate at which all candidates for a particular office are afforded equal opportunity to express their views to the membership prior to an election.” 29 C.F.R. §452.74.

Chalfant, P-882-JC28-PNW, P-883-JC28-PNW (September 6, 1996). The joint council extended such an opportunity to both Messrs. Hoffa and Carey. Mr. Carey failed to respond to the invitation. The obligation to provide equal opportunity does not mean that the joint council must select a time and date that does not conflict with other commitments of the candidates.

Mr. Sosinsky argues that the protested publication was sent to more local unions than usual in order to spread the campaign message allegedly contained in the debated article. The investigation

Joel Sosinsky

November 6, 1996

Page 3

revealed, however, that the publication was not more widely distributed than the prior issue. Moreover, since the Election Officer finds that the article does not constitute impermissible campaigning, a wider distribution, even if proven by the evidence, would not violate the *Rules*.

For the foregoing reasons, the protest is 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.
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 N. 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