

December 2, 1996

VIA UPS OVERNIGHT

Mark Clark
8004 Cureton Circle
Las Vegas, NV 89128

Steve H. Burrus, Secretary-Treasurer
Teamsters Local Union 995
300 Shadow Lane
Las Vegas, NV 89106

Re: Election Office Case No. P-1282-LU995-EOH

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 Mark Clark, a member of Local Union 995. Mr. Clark alleges that Local Union 995 violated its own policy and placed him on withdrawal in order to retaliate against him for filing a protest with the Election Officer, in violation of the *Rules*.

Local Union 995 responds that Mr. Clark does not allege a violation of the *Rules*. Thus, the local union asserts, the Election Officer lacks jurisdiction to rule on the protest.

Election Office Staff Attorney Jonathan K. O’Neill investigated the protest.

The local union’s argument regarding the Election Officer’s jurisdiction is without merit. The protester alleges retaliation for the filing of a protest with the Election Officer. The *Rules* expressly forbid such retaliation. Therefore, the allegations of the protester fall within the jurisdiction of the Election Officer.

The investigation revealed that Mr. Clark has not been employed at a craft under the jurisdiction of Local Union 995 for two years as a result of a decertification election at his workplace. Until recently, the local union allowed Mr. Clark to cash-pay his dues and retain membership status. On October 23, 1996, Mr. Clark filed a protest with the Election Officer alleging that resources of Local Union 14 had been used to support James P. Hoffa, a candidate for general president.

The Election Officer issued her decision in the above-mentioned case on November 13, 1996. See Clark, P-1132-LU14-CLA (November 13, 1996). In that decision, the Election Officer granted Mr. Clark's protest and ordered remedial action against Local Union 14. On November 18, 1996, Mr. Clark was placed on withdrawal by Steve Burrus, secretary-treasurer of Local Union 995.

Mr. Clark's withdrawal conforms to the requirements of the IBT constitution, which states, at Article XVIII, Section 6(a), that members who have not worked in a job under the jurisdiction of the local union for six months must be placed on withdrawal. However, the Election Officer is concerned with the timing of this action, given its proximity to Mr. Clark's filing his protest. Therefore, the Election Officer is requiring the local union to post the notice attached to this decision on all bulletin boards at the local union to ensure that no retaliatory action is taken against members for exercising their rights.

Accordingly, the protest is DENIED.

Within two (2) days of the date of this decision, Local Union 995 shall post the attached "Notice to Local Union 995 Members" on all bulletin boards at the local union. Within one (1) day of completing such posting, Local Union 995 shall file an affidavit with the Election Officer describing its compliance with this order.

An order of the Election Officer, unless otherwise stayed, takes immediate effect against a party found to be in violation of the *Rules*. In Re: Lopez, 96 - Elec. App. - 73 (KC) (February 13, 1996).

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,

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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

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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 N. 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
Dolly M. Gee, Regional Coordinator

NOTICE TO MEMBERS OF LOCAL UNION 995

All local union members have the right to support candidates of their choice and to file protests with the Election Officer, as set forth in the *Election Rules*, without fear of retaliation or intimidation.

Anyone subject to such conduct should file a protest with the Election Officer at 400 N. Capitol Street, N.W., Suite 855, Washington, D.C. 20001; telephone (800) 565-VOTE or (202) 624-3500; facsimile (202) 624-3525.

Date

Barbara Zack Quindel
Election Officer

This is an official notice which must remain posted through December 10, 1996 and must not be defaced or altered in any manner or be covered with any other material.