

September 19, 1995

VIA UPS OVERNIGHT

Richard Hathaway
32 Deborah Drive
St. Peters, MO 63376

Brian Spector
Spector and Sweeney
333 S. Kirkwood Road
St. Louis, MO 63122

David Gallagher, Secretary-Treasurer
Teamsters Local Union 682
5730 Elizabeth Avenue
St. Louis, MO 63110

RE: Election Office Case No. P-137-LU682-MOI
[CORRECTED DECISION]

Gentlemen:

Due to clerical errors in the decision issued on September 18, 1995, the following corrected decision is issued. A pre-election protest was filed pursuant to Article XIV, Section 2(b) of the *Rules for the 1995-1996 IBT International Union Officer Election ("Rules")* by Richard Hathaway, a member of Local Union 682 and a candidate for delegate. The protester alleges Local Union 682 failed to honor a request for distribution of candidate literature at a reasonable cost in violation of the *Rules*. The protester further alleges collusion between Local Union 682 and Advanced Secretarial, Inc., the mail house selected by the Local Union to provide discriminatory service in favor of candidates endorsed by the leadership of Local Union 682.

Local Union 682 responded that it provides candidates with equal access to mail processing services through Advanced Secretarial. The Local Union denies any connection or collusion between itself and Advanced Secretarial.

The protest was investigated by Regional Coordinator Michael D. Gordon.

In support of his protest, Mr. Hathaway provided the price quote, which he calls "outrageous," for mail services he claims to have received from Advanced Secretarial and one he received from Save-On-Mail, Inc. To support his allegation of collusion, Mr. Hathaway claims that the owner of Advanced Secretarial, Elizabeth Crooks, is married to the President of Local Union 682. Mr. Hathaway further states that a connection existed between Ms. Crooks and Local Union 682's attorney Brian Spector, and Ed Finklestein, a political consultant for Local Union 682 officers.

Article VIII, Section 7(a)(1) of the *Rules* provides:

Each candidate shall be permitted a reasonable opportunity, equal to that of any other candidate, to have his/her literature distributed by the Union, at the candidate's expense. This means (a) each candidate is entitled to a reasonable number of mailings, whether or not any other candidate makes such request(s); (b) when the Union authorizes distribution of campaign literature on behalf of any candidate, similar distribution under the same conditions and costs shall be made for any other candidate, if requested; and (c) the Union need not distribute any candidate's campaign literature if that candidate is not able and willing to pay for the reasonable costs of such distribution.

The investigation revealed that the prices cited for Advanced Secretarial by the protester were incorrect. Ms. Crooks provided the Election Officer with a copy of an August 23, 1995 letter from Advanced Secretarial to Mr. Hathaway which provides prices for services that are considerably lower than the prices referred to by Mr. Hathaway in his protest letter. Article VIII, Section 7(a)(1) of the *Rules* requires that the costs be reasonable-- not necessarily the least expensive service available. There is no evidence that the Advanced Secretarial's prices are unreasonable.

As to the allegation of collusion, Ms. Crooks is not married to the Local Union President and there is no evidence that Advanced Secretarial or Ms. Crooks had any personal or business relationship with the officers of Local Union 682 or Mr. Finkelstein prior to August 1995, when Advanced Secretarial was selected to perform the mailing services. Advanced Secretarial has performed certain part-time, overflow clerical work for Mr. Spector since early August 1995, when Ms. Crooks solicited his work after hearing he had recently established a new law firm. The fact that Advanced Secretarial performs business services for the Local Union's attorney is not evidence of collusion to favor certain candidates in the delegate election.

Based upon the foregoing, the protest is DENIED.

Richard Hathaway
September 19, 1995
Page 3

Any interested party not satisfied with this determination may request a hearing before the Election Appeals Master within one day of their 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
Michael D. Gordon, Regional Coordinator