

October 24, 1995

VIA UPS OVERNIGHT

Bob Hasegawa, Secretary-Treasurer
Teamsters Local 174
553 John Street
Seattle, WA 98109

The Labor Times
228 West Fourth
Kansas City, MO 64105

Teamsters Joint Council 56
4501 Van Brunt Boulevard
Kansas City, MO 64130

Teamsters Local Union 41
4501 Van Brunt Boulevard
Kansas City, MO 64130

James P. Hoffa
2593 Hounds Chase
Troy, MI 48098

Ron Carey, General President
International Brotherhood of Teamsters
25 Louisiana Avenue, N.W.
Washington, DC 20001

Susan Davis
Cohen, Weiss & Simon
330 W. 42nd Street
New York, NY 10036

Paul Alan Levy
Public Citizen Litigation Group
1600 20th Street, N.W.
Washington, DC 20009

Re: Election Office Case No. P-161-LU41-MOI

Gentlepersons:

A pre-election protest was filed pursuant to Article XIV, Section 2 of the *Rules for the 1995-1996 IBT International Union Delegate and Officer Election ("Rules")* by

Bob Hasegawa, secretary-treasurer of Local Union 174, who protests the use of employer and/or union funds to promote the candidacy of James P. Hoffa through the distribution and publication of the September 1995 issue of *The Labor Times*, a Kansas City, Missouri labor newspaper, which

includes an article covering the Hoffa campaign.

The protest was investigated by Election Office Staff Attorney Tara Levy.

I. Distribution of *The Labor Times*

The use of union-financed publications to advance or impede the candidacy of an IBT member for International office or convention delegate is barred by Article VIII, Section 8(a), which provides, "No publication or communication financed, directly or indirectly, by a Union may be used to support or attack any candidate or the candidacy of any person . . ." In Sauvoir, P-041-LU41-EOH, et seq. (August 16, 1995) the Election Officer held that this provision, because it specifically prohibits *indirect* support, applies to a local union's purchase of multiple copies of a periodical for distribution to the membership.

The Election Officer further held in Sauvoir that to the extent a local union distributes a publication which supports or attacks a candidate or candidacy to its members, Article VIII, Section 5(a)(4), prohibiting a local union from discriminating against a candidate with respect to literature distribution, is implicated.

Phil Young, Local Union 41 President and a candidate for International office, has provided the Election Officer with an invoice to his campaign from the publisher of *The Labor Times* for mailing the September 1995 issue to all local unions. While distribution of campaign material by an employer or a union may implicate the *Rules*, the distribution of *The Labor Times* was paid for by Mr. Young's campaign does not violate the *Rules*.

II. *The Labor Times* as a Union-Financed Publication

Mr. Hasegawa also alleges that Joint Council 56 "shares responsibility for th[e] publication" because Joint Council 56 is listed on the paper's editorial page as an endorser of the paper.¹

¹The protester claims that the Election Officer's decision in Sauvoir, supra, "implies that the Labor Times is the union publication of Teamsters Local 41."

This assertion is incorrect. The Election Officer found there that two *Labor Times* issues published in 1994 contained *Local 41 News*, a bimonthly publication of Local Union 41. However, the *Labor Times* issue protested here does not contain *Local 41 News*.

The Election Officer determined in Sauwoir, supra that *The Labor Times* is independently published by All American Publishers and reports on matters of interest to labor unions in the Kansas City area. The protester has produced no evidence that *The Labor Times* is financed by Joint Council 56. The **Rules** regulating union-financed publications do not apply to *The Labor Times*.

III. *The Labor Times* as a "Campaign Contribution"

The **Rules** define "campaign contribution" to include "any direct or indirect contribution where the purpose, object or foreseeable effect of that contribution is to influence, positively or negatively, the election of a candidate . . ."

While recognizing that the definition of the term "campaign contribution" in the **Rules** is intended to be broad to further the purpose of the Consent Order and the Election Rules, " the Election Officer in Scott, Case No. P-969-IBT (October 18, 1991), refused to construe the term to include "newspaper or magazine articles published by entities which are not owned or whose editorial policies are not controlled by candidates or committees acting on behalf of candidates."

The protester here has supplied no evidence that *The Labor Times* is owned, or its editorial policy is controlled by Mr. Hoffa, his campaign, or any member of his slate. Nor does the protester supply any evidence that the editorial policy is controlled by Joint Council 56, notwithstanding its endorsement. In these circumstances, the protested article in *The Labor Times* is not considered a "campaign contribution" subject to the **Rules**.

Based on the foregoing, 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 North Capitol Street, Suite 855, Washington, D.C. 20001, Facsimile (202) 624-

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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