

January 29, 1996

VIA UPS OVERNIGHT

Jeffrey A. Hoke
P.O. Box 407
Greenville, IN 47124

Robert M. Winstead, Secretary-Treasurer
Teamsters Local Union 89
3813 Taylor Blvd.
Louisville, KY 40215

Re: Election Office Case No. P-322-LU89-SCE

Gentlemen:

A pre-election protest was filed pursuant to Article XIV, Section 2(b) of the *Rules for the 1995-1996 IBT International Union Election ("Rules")* by Jeffrey A. Hoke, a member of Local Union 89 and candidate for delegate, against Local Union 89 Secretary-Treasurer Robert M. Winstead. The protester alleges that Mr. Winstead, who is also a candidate for delegate to the International convention, violated Article XII, Section 1(b)(3) and 1(b)(4) of the *Rules* by using the local union's equipment and personnel to advance his campaign. Specifically, the protester claims that Mr. Winstead filed a protest¹ with the Election Office which was typed by his secretary and transmitted on the local union's facsimile machine during working hours .

The protest was investigated by Regional Coordinator Bruce Boyens.

Local Union 89 held its nominations meeting on January 5, 1996. On January 9,

¹ Election Office Case No. E-021-LU89-EOH.

Mr. Winstead faxed a protest to the Election Office challenging the eligibility of a number of members to run for delegate and to nominate and second other candidates. The top of each page of the protest indicates that it was faxed at 9:25 from Teamsters Local 89. The initials of Mr. Winstead's secretary are found at the end of the protest, indicating that she typed the document on behalf of the charged party.

Article XII, Section 1(b)(3) of the **Rules** states that "Union funds, facilities, equipment, stationery, personnel, etc., may not be used to assist in campaigns." Section 1(b)(4) prohibits a member from "campaign[ing] for him/herself or for any other candidate during time that is paid for by the Union."

The Election Officer has consistently held that the right to file a protest "go[es] to the heart of the safeguards mandated by the **Rules** and the Consent Order." Sullivan, P-084-LU745-SCE (June 10, 1995) (quoting In Re: Puglisi, P-1074-LU-64-ENG (November 25, 1991), aff'd, 91 - Elec. App. - 242, aff'd, 88 CIV. 4486, slip op. (S.D.N.Y. 1992)); Crawley, P-098-LU088-PNJ (June 30, 1995), aff'd, 95 - Elec. App. - 1 (July 14, 1995); Hoffa, P-264-IBT-SCE (January 11, 1995).

In Scalf, P-097-LU705-CHI (August 16, 1995), the Election Officer extended this principle to a situation identical to the instant protest. Finding that the use by a local union officer of office equipment and secretarial time to file several protests did not violate the **Rules**, the Election Officer stated that the right to file a protest "is protected, and does not constitute support for a candidate or campaigning under the **Rules**." Citing Article XIV, Section 1,² the Election Officer found that "[t]here are no restrictions concerning the protected right to file protests" and therefore the action of the charged party did not violate the **Rules**. See also Jordan, Case No. P-269-LU337-SCE (January 18, 1996).

Based upon 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 and Watkins
885 Third Avenue, Suite 1000
New York, NY 10022
Fax (212) 751-4864

² Section 1 states: "Any member, Local Union or other subordinate body . . . may file a protest with the Election Officer alleging non-compliance with the **Rules**, free from retaliation or threat of retaliation by any person or entity for such filing.

Jeffrey A. Hoke
January 29, 1996
Page 3

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
Bruce Boyens, Regional Coordinator