

February 9, 1996

VIA UPS OVERNIGHT

Jonathan M. Davis
1512 4th Avenue, West
Seattle, WA 98119

John C. Cole, Jr.
13720 Beverly Park Road
Lynnwood, WA 98037

Daniel G. McKoy
2309 N.E. 95th Street
Seattle, WA 98115

James L. Dahlbeck
17720 115th Street, N.E.
Granite Falls, WA 98252

Ruth K. Hamada
520 S. Main Street #1005
Seattle, WA 98104

Jon L. Rabine, Secretary-Treasurer
Teamsters Local Union 763
553 John Street, Room 16
Seattle, WA 98109

Ron Zier
1522 N.E. 175 #310
Seattle, WA 98155

**Re: Election Office Case Nos. P-336-LU763-PNW
P-347-LU763-PNW**

Gentlepersons:

Jonathan M. Davis, Ruth K. Hamada, and Daniel G. McCoy filed a protest docketed as P-336-LU763-PNW pursuant to the ***Rules for the IBT 1995-1996 International Union Delegate and Officer Election ("Rules")***. James L. Dahlbeck, John C. Cole, Jr. and Ron Zier filed a protest docketed as P-347-LU763-PNW. All of the protesters allege that Local Union 763 Secretary-Treasurer Jon L. Rabine has improperly classified insert-helpers employed by the *Seattle Times* newspaper as inactive or nonmembers, thereby denying them the right to vote for local union delegate elections. In the cases of Mr. Davis and Ms. Hamada, they allege that Mr. Rabine has similarly denied them the right to be nominated as delegate. Because the two protests involve the same facts and legal issues, they were consolidated by the Election Officer.

Mr. Rabine responds that casual insert-helpers employed by the *Seattle Times* are not eligible to run for delegate or to vote in the delegate elections because they pay administrative fees instead of dues.

The protests were investigated by Regional Coordinator Christine M. Mrak.

At the outset, the Election Officer notes that of the protesters, only Jonathan Davis and Ruth Hamada are casual insert-helpers employed by the *Seattle Times*.

On January 3, 1996, Mr. Davis and Ms. Hamada were nominated to run for delegate. On January 5, 1996, Mr. Rabine protested the eligibility of Mr. Davis and Ms. Hamada to run for delegate, claiming that as casual insert-helpers they pay “administrative fees” instead of dues and do not therefore fulfill the criteria of eligibility to run for delegate and alternate delegate under the **Rules**.

In Rabine, E-018-LU763-EOH, et seq. (January 29, 1996), the Election Officer found that Mr. Davis had maintained 24 months of continuous good standing, and was therefore eligible to run for delegate because he had paid \$13.00 as the initiation fee set by the local union for the casual insert-helpers. Also, his employer had deducted and transmitted to the local union 3.5% of his weekly earnings on a monthly basis as dues as set forth in the collective bargaining agreement. The Election Officer held that Ms. Hamada was not a member in good standing because she had failed to pay the required initiation fee, and was therefore ineligible to run for delegate. Ms. Hamada appealed the decision of the Election Officer to the Election Appeals Master, who affirmed the decision below. In Re: Hamada, 96 - Elec. App. 71 - (KC) (February 1, 1996).

The current protest raises the issue of whether the casual insert-helpers are eligible to vote in the upcoming delegate elections. Eligibility to vote in the delegate election is controlled by Article VI, Section 1 of the **Rules**, which provides in pertinent part:

To be eligible to vote in an election for delegate, alternate delegate or International Officer, a member must have his/her dues paid up through the month prior to the month in which the election is held . . . Persons eligible to vote under this rule shall include, but not necessarily be limited to, the following:

(a) Each person who is otherwise a member in good standing and whose dues are paid through the month prior to the month in which ballots are counted;

(b) Under and in accordance with Article X, Section 5(c) of the IBT Constitution, each member otherwise in good standing whose dues record does not reflect that his/her dues have been paid through the month prior to the month in which ballots are counted, who pays his/her dues by check-off, and whose employer has remitted dues for him/her in the last remittance made by such employer, provided that such remittance was received within ninety (90) days of the date on which the ballots are counted;

(c) Each newly initiated member who is not in good standing

solely because he/she has not fully paid his/her initiation fees, who pays his/her dues and initiation fees by check-off, and who has been employed in excess of six (6) calendar months . . .

The Election Officer held in Rabine, supra, that the manner in which the local union has classified the insert-helpers does not determine whether they are union members. Rather, an employee is entitled to rely on his or her reasonable understanding of the local union membership requirements communicated by the local union. The Election Officer found that the membership requirements applicable to the casual insert-helpers are that they pay an initiation fee of \$13.00 and monthly dues by check-off in the amount of three and one-half (3.5%) of their weekly straight time earnings.

Ballots in the Local Union 763 delegate election will be counted on February 26, 1996. The local union has set 5:00 p.m. on February 23, 1996 as the deadline for payment of dues arrearages. Thus, all casual insert-helpers on check-off who meet the eligibility requirements of the **Rules** will be eligible to vote. Those casual insert-helpers who have not paid their \$13.00 cash initiation fee must pay this amount by February 23, 1996 in order to be eligible to vote.

Based on the foregoing, the protest is GRANTED.

The Election Officer is empowered to remedy violations of the **Rules** by whatever action is appropriate. In order to apprise the casual insert-helpers of their right to vote in the delegate and alternate delegate election, the Election Officer orders Local Union 763 to take the following actions:

1. Immediately post the attached NOTICE TO MEMBERS OF LOCAL UNION 763 EMPLOYED BY THE *SEATTLE TIMES* AS CASUAL INSERT-HELPERS on all union bulletin boards at the *Seattle Times*.

2. In response to any inquiries from the *Seattle Times*' casual insert-helpers, advise them that they are eligible to vote in the Local Union 763 election for delegate and alternate delegate to the International Union convention if they are actively employed, on check-off, and are listed on the employer's last check-off list submitted to the union. Those casual insert-helpers who have not paid their \$13.00 initiation fee must pay this amount by February 23, 1996 in order to be eligible to vote. Any casual insert-helpers who are cash dues payers will be eligible to vote if they have dues paid up through the month of January 1996, have paid the \$13.00 initiation fee or make such payment to the local union by February 23, 1996.

3. Transmit an affidavit by facsimile to the Election Officer by February 14, 1996 demonstrating compliance with the foregoing orders.

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:

Jonathan M. Davis, et al.
February 9, 1996
Page 4

Kenneth Conboy, Esq.
Latham and 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) 624-3525. 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

**NOTICE TO MEMBERS OF LOCAL UNION 763
EMPLOYED BY THE *SEATTLE TIMES*
AS CASUAL INSERT-HELPERS
FROM BARBARA ZACK QUINDEL
ELECTION OFFICER, IBT**

Pursuant to the *Rules for the 1995-1996 IBT International Union Delegate and Officer Election*, you will be eligible to vote in the Local Union 763 election for delegate and alternate delegate to the International Union convention if you have paid your initiation fee, are actively employed, on check-off, and are listed on the employer's last check-off list submitted to the union.

If you have not paid your \$13.00 initiation fee, you must pay this amount by February 23, 1996 in order to be eligible to vote.

If you are a cash dues payer, you will be eligible to vote if you have dues paid up through the month of January 1996, have paid the \$13.00 initiation fee, or make such payments to the local union by 5:00 p.m. on February 23, 1996.

The ballots for this election have been mailed. The ballots will be counted on February 26, 1996. If you have any questions regarding your eligibility or your mail ballot you should contact Regional Coordinator Christine Mrak at Webster, Mrak & Blumberg, 600 Puget Sound Plaza, 1325 Fourth Avenue, Seattle, Washington 98101; Telephone: (206) 233-0344.

Barbara Zack Quindel
Election Officer, IBT

This is an official notice and must remain posted for 30 consecutive days from the day of posting, and must not be altered, defaced or covered by any other material.