

March 5, 1996

VIA UPS OVERNIGHT

Phil Young
Box 106
East Lynne, MO 64743

Putting Members First Slate
c/o Wesley Epperson
1702 Evanston
Independence, MO 64052

Re: Election Office Case No. P-410-LU41-MOI

Gentlemen:

Phil Young, president of Local Union 41 and a member of the Members First slate of candidates for delegate, filed a protest pursuant to Article XIV, Section 2(b) of the ***Rules for the 1995-1996 IBT International Union Delegate and Officer Election ("Rules")*** against the Putting Members First slate of candidates for delegate from Local Union 41 and the International union. The protester alleges that the International union provided the Putting Members First slate with a videotape entitled, "Putting the Members First" which the slate used as a "campaign tool" in violation of the ***Rules***. The protester notes the similarity between the name of the slate and the name of the videotape.

Paul Heiman, Mike Savvoir and George Young, members of the Putting Members First slate, respond that they distributed the videotape for its informational value, not for campaign purposes.

Adjunct Regional Coordinator William O. Eisler investigated the protest.

In early 1994, the IBT produced and distributed to all local union officers and stewards a videotape entitled, "Putting the Members First," to persuade the membership to vote for a dues increase in a referendum held in March 1994. The 12-minute videotape features union members telling how union resources have strengthened their union and helped to win good

contracts. The tape includes graphs and charts showing the union's current financial state and the projected impact of the proposed dues increase. It also features General President Ron Carey, who stresses the need to increase dues in order to build a strong strike fund and expand union programs.

The protester states that on February 6, 1996, members of the Putting Members First slate gave copies of the videotape to two members of Local Union 41, Kevin Huffman and Roger Black. The facts describing the protested distribution of the videotapes are as follows.

As Kevin Huffman was leaving work at the United Parcel Service ("UPS") facility at about 9:20 a.m. on February 2, 1996, he encountered Paul Heiman and George Young, members of the Putting Members First slate, in the parking lot passing out campaign literature on behalf of the slate. Mr. Huffman talked with Mr. Heiman and George Young for about 15 minutes. Among the topics of their conversation were a sexual harassment case brought against the local union, the "team" concept at UPS, and the upcoming delegate elections. The two candidates gave Mr. Huffman a copy of a videotape produced by the IBT concerning the "team" concept. George Young asked Mr. Huffman if he had seen the "other video," referring to the videotape entitled, "Putting the Members First." Mr. Huffman replied that he had not. Thereafter, George Young brought Mr. Huffman three copies of the videotape. Mr. Heiman and Mr. Young state that they have distributed a total of 12 copies of the videotape since 1994 because they believed the videotape to be of interest to union members.

During the week of February 6, 1996, Roger Black initiated a conversation with Michael Savvoir of the Putting Members First slate concerning the "mudslinging" that was going on in the local union delegate election. Mr. Black asked Mr. Savvoir if it was true, as President Young was saying, that members of the Putting Members First slate had supported the dues increase proposed in 1994. Mr. Savvoir told Mr. Black that they had supported the dues increase, and that he had a videotape on the subject that Mr. Black might find informative.

Mr. Savvoir came up to Mr. Black in the check-in room at UPS as he was finishing work on about February 10, 1996, and gave him a copy of the "Putting Members First" videotape, saying, "You were asking some questions about the dues situation and this might answer some of your questions." Mr. Black states that he understood that Mr. Savvoir gave him a copy of the videotape in order to inform him as to why the dues increase was needed, and not for campaign purposes. Mr. Savvoir obtained approximately 50 copies of the videotape in January 1994 from the International union and states that he has distributed the videotape to inform members about the need for a dues increase.

Article VIII, Section 8(a), prohibits the use of a union-financed publication or communication which "supports or attacks" a candidate. The Election Officer determines whether a union-financed communication is prohibited by measuring its tone, timing, content and context. Martin, et al., P-010-IBT-PNJ, et seq. (August 17, 1995), aff'd, 95 - Elec. App. - 18 (KC) (October 2, 1995). Her analysis recognizes that "[d]uly elected union officials have a right and responsibility to exercise the powers of their office and to advise and report to the membership on issues of general concern." Camarata v. Int'l Bhd. of Teamsters, 478 F. Supp. 321, 330 (D.D.C. 1979), aff'd, 108 L.R.R.M. (BNA) 2924 (D.C. Cir. 1981).

The videotape featuring Mr. Carey's position on the then-proposed dues increase is not campaign material. The videotape was produced and distributed to all local unions in early 1994, well prior to October 1994 when Mr. Carey became a candidate, and far in advance of the delegate elections. See Martin, supra. The videotape was not provided by the International union to the Putting Members First slate to advance their campaign. Rather, the videotape was broadly distributed to convey the views of the IBT general president on the dues increase, a subject which is of legitimate concern to union members. See Ohlson, P-050-LU325-EOH (September 27, 1995). The fact that these delegate candidates, during their campaign, chose to utilize a resource that the union had previously given them in a non-partisan context does not constitute a violation of 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 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
William Eisler, Regional Coordinator