

March 12, 1996

VIA UPS OVERNIGHT

Archie J. Cook
4508 Balmoral Drive
Richton Park, IL 60471

Gerald Zero, Secretary-Treasurer
Teamsters Local Union 705
1645 W. Jackson Boulevard
Chicago, IL 60612

Re: Election Office Case No. P-455-LU705-CHI

Gentlemen:

Archie J. Cook, a member of Local Union 705, filed a pre-election protest pursuant to Article XIV, Section 2(b) of the *Rules for the 1995-1996 IBT International Union Officer and Delegate Election ("Rules")*. The protester alleges that Local Union 705 Secretary-Treasurer Gerald Zero has made an improper campaign contribution by writing a letter to Local Union 714 Secretary-Treasurer William Hogan which was posted at Local Union 705 work sites.

Mr. Zero responds that he has no knowledge of the posting of the letter, which nevertheless, addresses a legitimate trade union issue, namely, the local union's effort to prevent union members from crossing its picket line.

The protest was assigned to Regional Coordinator Julie E. Hamos for investigation.

Mr. Zero wrote a letter dated February 5, 1996 to Mr. Hogan, who is also a candidate for International office and a member of a slate affiliated with James P. Hoffa, a candidate for general

president. Mr. Zero is a candidate for delegate in Local Union 705 and is affiliated with a slate that supports General President Ron Carey, who is running for reelection.

The letter, on Local Union 705 letterhead, reads:

Dear Sir and Brother:

As of Thursday, February 1, 1996, Teamsters Local 705 has been on strike against Amerigas at three different locations. It has come to my attention that Amerigas has hired security people from a firm called Illinois Security Systems Inc. Some of these employees are also Cook County Correctional Officers and members of Local 714. Although it has been a fairly quite [sic] strike until now, our members have been threatened with arrest by these security people.

We would appreciate any help you can give use [sic] in making sure Teamsters don't cross picket lines, especially those of other Teamsters.

Mr. Cook alleges that the letter was posted at a Hyman Freight facility and other Local Union 705 work sites, none of which are involved in the labor dispute. The protester contends that the reason for posting the letter is to promote the slate of candidates for delegate of Local Union 705 that supports Mr. Carey. He contends that by alleging "that members of Mr. Hogan's home local were undermining a strike by Mr. Zero's local" the letter reflects negatively on the Hoffa-Hogan slate. The protester notes that it has never been the practice of Local Union 705 to post notices concerning picket lines at a worksite that is not involved in the labor dispute.

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

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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).

In Dunning, P-192-LU486-MGN (October 31, 1995), the Election Officer held that a letter from James P. Hoffa to union members seeking support for striking union members was within the legitimate discharge of duties performed by a union representative, even though it could be read to imply criticism of the International union for failing to provide the strikers with strike benefits. The Election Officer found that in the context of a request for assistance, it was reasonable to note that the IBT members were without a strike fund. Similarly, Mr. Zero’s letter asking that a picket line by Local Union 705 members be honored is consistent with his responsibilities as a principal officer of the local union. To the extent that the protester reads the letter as critical of Mr. Hogan, even if the letter did reflect negatively on Mr. Hogan, it is not an attack on his candidacy. Mere criticism, in and of itself, does not rise to the level of campaigning. Blake, P-245-JC42-CLA (January 12, 1996), aff’d, 96 - Elec. App. - 54 (January 12, 1996).

Accordingly, 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

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cc: Kenneth Conboy, Election Appeals Master
Julie E. Hamos, Regional Coordinator