

March 11, 1996

VIA UPS OVERNIGHT

Robert J. Rabbit
13 Rolling Ridge Drive
Warwick, NY 10990

Re: Election Office Case No. P-537-LU807-NYC

Dear Sir:

A pre-election protest was filed pursuant to Article XIV, Section 2(b) of the *Rules for the IBT International Union Delegate and Officer Election ("Rules")* by Robert J. Rabbit, a member of Local Union 807. Mr. Rabbit contends that a slate declaration form was improperly declared untimely by the Election Officer since, in filing the form, the slate relied upon advice of Regional Coordinator Arthur A. Wasserman.

This protest was supervised by Protest Chief Benetta Mansfield.

The *Rules*, at Article IX, Section 1(c), read, in pertinent part:

In the case of delegate or alternate delegate nominations and elections, such slate declaration shall be filed at the earliest possible date but in no event later than three (3) days after the Local Union's final delegate nominations meeting.

The nomination meeting for Local Union 807 was conducted on Thursday, February 15, 1996. The protest contends that at the meeting a member of his slate asked Mr. Wasserman when they had to submit their slate declaration form, and that Mr. Wasserman responded "that since Monday, Feb. 19 was a national holiday (President's Day) the three day deadline, provided by the Rules, would extend until Tuesday, Feb. 20 at 4:00 p.m."

Mr. Wasserman reports that the reference to three days was in response to a question concerning the filing of a protest, since the language in Article XIV, Section 1 refers to "working

days.” Thus, Mr. Wasserman stated that Saturday and Sunday were not working days, and Monday was a federal holiday, two working days under the **Rules** would mean a protest could be filed on Tuesday, February 20 and still be timely. The explanation by Mr. Wasserman, a seasoned representative, appropriately explains the reference to February 20 at the nomination meeting.

As noted above, the language on slate declarations refers to “days” rather than “working days.” Under the **Rules**, Definitions, 11, the term “*day(s)*” refers to calendar day(s) unless otherwise specified. Here, in order to be timely filed, the protester had to file the slate declaration by Sunday, February 18, 1996. Thus, the representative of the Election Officer, acted appropriately when he advised the protester that the slate declaration was untimely and could not be accepted. The fact that the protester may have misunderstood Mr. Wasserman does not remove him from the clear requirement that slate declaration forms be filed no later than three days after the nomination meeting under the **Rules**.

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

cc: Kenneth Conboy, Election Appeals Master
Arthur A. Wasserman, Regional Coordinator