

March 18, 1996

VIA UPS OVERNIGHT

LeRoy R. Pacheco  
7805 Candlestick Lane #305  
Midvale, UT 84047

Ralph Taurone Slate  
c/o Ralph Taurone, Secretary-Treasurer  
Teamsters Local Union 222  
2641 S. 3270, W.  
Salt Lake City, UT 84119

Re: Election Office Case No. P-578-LU222-RMT

Gentlemen:

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 LeRoy R. Pacheco, a member of Local Union 222. Mr. Pacheco's protest and a subsequent fax to the Election Officer raise four charges of unfair campaign activity: (1) Ralph Taurone, secretary-treasurer of Local Union 222 and candidate for delegate, hand-picked a slate of delegates before the local union's nomination meeting and announced that they would go to the International convention; (2) Local Union 222 officers have challenged the eligibility of all nominees not picked by Mr. Taurone; (3) the protester has been "getting a lot of heat because of my protest;" and (4) Mr. Taurone and those members affiliated with him have the advantage of access to Local Union 222 membership lists, addresses and telephone numbers.<sup>1</sup>

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<sup>1</sup>Mr. Pacheco filed his protest against Mr. Taurone and the other members of Mr. Taurone's slate. As noted below, Mr. Taurone is running as an independent candidate due to the fact that he filed his slate declaration late.

This protest was investigated by Regional Coordinator Jonathan Wilderman.

On February 3, 1996, Mr. Taurone held a campaign meeting during non-business hours at the Labor Center in Salt Lake City, where he lined up persons to run with him on a slate in the Local Union 222 delegate election. Mr. Pacheco attended the meeting. He states that Mr. Taurone announced that he and his hand-picked slate would go to the International convention.

Local Union 222 held its nomination meeting on February 12. Mr. Taurone did not file his slate declaration within three days of the nomination meeting, as required by Article IX, Section 1(c) of the *Rules*. Therefore, he and the members affiliated with him are running in the local union delegate election as independent candidates.

On February 14, Charles Knight, a Local Union 222 business agent, protested the eligibility of six nominees. By decision dated March 5, 1996, the Election Officer ruled four of the protested persons ineligible. Mr. Pacheco states that Mr. Knight's protest came from the officers of the local union and was directed against all nominees not hand-picked by Mr. Taurone. He further states that on March 7, one of the Local Union 222 officers told him, "We have gotten rid of most of the candidates you have put up for delegates."

In a fax to the Election Officer dated March 10, Mr. Pacheco asserts that he has been getting "a lot of heat" for filing this protest and that "the Taurone slate has all the advantages such as a membership list and addresses and telephone numbers to contact union members" and that "[w]e have none."

The Election Officer does not find a violation of the *Rules* on these facts. With respect to Mr. Taurone's statements at his February 3 campaign meeting, Article IX, Section 1 of the *Rules* protects the right of all candidates to affiliate with slates on a voluntary and mutually-agreed basis. Such affiliations may be formed at any time prior to an election meeting. Mr. Taurone's announcement that he and the members affiliated with him would be attending the International convention appears to be campaign bravado. The supervised election process at Local Union 222 will determine its convention delegates.

With respect to Mr. Knight's eligibility protest, "[t]he Election Officer has held repeatedly

Leroy Pacheco  
March 18, 1996  
Page 3

that the filing of a protest is protected, and does not constitute support for a candidate or campaigning under the *Rules*.” Kronhert, P-489-LU843-PNJ (March 8, 1996); Cook, P-357-LU705-CHI (February 16, 1996) (appeal pending); Hoke, P-322-LU89-SCE (January 29, 1996); and Scalf, P-097-LU705-CHI (August 16, 1995). Even if Mr. Pacheco’s allegation that Local Union 222 officers stood behind Mr. Knight’s protest is true, the use of union resources in protest filing does not change the protected nature of the activity. See Kronhert; Cook; Scalf.

With respect to Mr. Pacheco’s remaining allegations, the Election Officer does not find on this record that Mr. Pacheco has suffered retaliation or that Mr. Taurone and the members affiliated with him have misused membership information. Article VIII, Section 11(f) of the *Rules* would prohibit Local Union 222 or any of its officers or members from retaliating against Mr. Pacheco for exercising the protected right of filing this protest. Specific actions alleged to have violated this section are not provided here. If such actions occur, they may be raised and tested by a protest. Similarly, several sections of the *Rules* regulate access to and use of membership information, including: access to membership lists (Article VIII, Section 2), nondiscriminatory distribution of campaign literature by the local union (Article VIII, Section 7) and nondiscriminatory use of local union resources (Article VIII, Section 11). Specific actions alleged to violate these or other sections may also be raised by a protest.

For the foregoing reasons, 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,

Leroy Pacheco  
March 18, 1996  
Page 4

Barbara Zack Quindel  
Election Officer

cc: Kenneth Conboy, Election Appeals Master  
Jonathan Wilderman, Regional Coordinator