

April 9, 1996

VIA UPS OVERNIGHT

Jeraldine Cheatem
P.O. Box 288492
Chicago, IL 60628

Eddie Kornegay, Trustee
Teamsters Local Union 743
300 S. Ashland Avenue
Chicago, IL 60607

Donnie Von Moore
824 E. 52nd Street
Chicago, IL 60615

Re: Election Office Case No. P-629-LU743-CHI

Gentlepersons:

This protest was filed pursuant to Article XIV, Section 2(b) of the *Rules for the 1995-1996 IBT International Union Delegate and Officer Election* (“*Rules*”) by Jeraldine Cheatem, a member of Local Union 743. The protester alleges that the candidates of the Moving Towards Members (“MTM”) slate, with the support of the leadership of Local Union 743, have participated in a pattern of impermissible campaigning, including campaigning on union time, use of union resources and accepting local union campaign contributions, in violation of the *Rules*.

Ms. Cheatem refers specifically to two incidents. First, she states that she witnessed MTM slate supporter Robin Sullivan walking through areas of the protester’s work site during business hours when Ms. Sullivan had no legitimate reason to be there. Second, she states that MTM slate candidate Donnie Von Moore campaigned on union time at her work site, also with no legitimate reason to be there.

Local Union 743 responds that Ms. Sullivan was assigned as a business agent to the protester’s work site in September 1995 and, in such capacity, conducts local union business at the work site. The local union further states that Mr. Von Moore visited the work site at the request of

Mose Freeman, a shop steward there. According to the local union, Mr. Von Moore was on his way to work when he stopped to discuss union business with Mr. Freeman. He then dropped off some materials, including some campaign literature, and left.

The protest was investigated by Adjunct Regional Coordinator Dennis M. Sarsany.

Article VIII, Section 11(b) states, in pertinent part:

All Union officers and employees, if members, retain the right to participate in campaign activities, including the right to run for office, to openly support or oppose any candidate, to aid or campaign for any candidate, and to make personal campaign contributions. However, such campaigning must not involve the expenditure of Union funds. Accordingly, officers and employees (and other members) of the Union may not campaign on time that is paid for by the Union. Campaigning incidental to regular Union business is not, however, violative of this section. Further, campaigning during paid vacation, paid lunch hours or breaks, or similar paid time off is also not violative of this section.

In addition, Article XII, Section 1(b) of the *Rules* states, in relevant part:

(3) No Union funds or other things of value shall be used, directly or indirectly, to promote the candidacy of any individual. Union funds, facilities, equipment, stationery, personnel, etc., may not be used to assist in campaigns unless the Union is compensated at fair market value for such assistance, and unless all candidates are provided equal access to such assistance and are advised in advance, in writing of the availability of such assistance . . .

(4) No member may campaign for him/herself or for any other candidate during time that is paid for by the Union or by any employer. However, campaigning incidental to work or regular Union business or during paid vacation, paid lunch hours or breaks, or similar paid time off is not violative of the campaign contribution rules.

The protester is employed at the University of Chicago Hospital (“UCH”). The investigation revealed that Ms. Sullivan was assigned to UCH as a business agent on September 19, 1995 and regularly visits this work site. As a result, the protester’s claim that Ms. Sullivan had no legitimate reason to be at UCH is without merit.

The investigation also revealed that on March 15, 1996, Mr. Von Moore met with Mr. Freeman at UCH in the morning for approximately one hour. According to Mr. Freeman, he required information and materials to process a matter for one of his co-workers, so he attempted to contact Philip John, the business agent with whom he usually worked. Mr. Freeman, however, discovered that Mr. John was not available, so he contacted Mr. Von Moore. He did this because he had worked with Mr. Von Moore previously, when Mr. Von Moore had been assigned to UCH as a business agent, and had developed a professional relationship with him.

Mr. Freeman further states that pursuant to this request, Mr. Von Moore came to see him at UCH the next morning and they spoke for almost an hour. Mr. Von Moore states, and Mr. Freeman confirms, that the bulk of this conversation concerned union business. Mr. Freeman states, however, that Mr. Von Moore did discuss the election at one point and attempted to solicit Mr. Freeman's support. According to Mr. Freeman, this portion of the conversation lasted no more than five or 10 minutes. Mr. Von Moore states that he then left some documents, including campaign materials, with Mr. Freeman.

The Election Officer credits Mr. Freeman's statement. The incident he describes, however, does not violate the *Rules*. Mr. Von Moore went to UCH to conduct legitimate union business at the request of Mr. Freeman. The evidence indicates that the portion of Mr. Von Moore's conversation relevant to the campaign was incidental to the conduct of this business.

While a union staff person may not campaign during work, the *Rules* permit campaign activity that is incidental to work. In Newhouse, P-253-LU435-RMT (January 4, 1996), the Election Officer determined that a local union staff person who solicited an IBT member to circulate candidate accreditation petitions during the course of transacting legitimate union business while on union time did not violate the *Rules*. Similarly, short campaign-related conversations between business agents and stewards which occur prior to commencement of contract negotiations do not violate the *Rules*. Dillon, P-467-LU284-CLE (March 4, 1991).

The campaigning which occurred in the present case was likewise incidental to the union business conducted by Mr. Von Moore. Mr. Freeman contacted Mr. Von Moore because he could not contact the business agent assigned to him. Mr. Von Moore assisted Mr. Freeman in the manner requested by Mr. Freeman. While Mr. Von Moore intended to drop off union literature and to attempt to solicit Mr. Freeman's support during his visit to UCH, the bulk of his time there was spent discussing matters of legitimate union business with Mr. Freeman. As a result, the brief portion of their conversation that involved the campaign was incidental to official union business.

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The protester alleges a pattern of *Rules* violations. She provides specific allegations against two individuals as an example of this pattern. As demonstrated above, neither individual violated the *Rules* in the manner alleged by the protester.

As a result, 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
Dennis M. Sarsany, Adjunct Regional Coordinator
Julie E. Hamos, Regional Coordinator