

April 2, 1996

VIA UPS OVERNIGHT

Richard Volpe, Secretary-Treasurer
Teamsters Local Union 550
6 Tuxedo Avenue
New Hyde Park, NY 11040

Diana Kilmury, Vice President
International Brotherhood of Teamsters
2612 E. 47th Avenue
Vancouver, BC V5S 1C1

Michael Ruscigno
302 Summit Avenue
Brooklyn, NY 07306

Michael Caffrey
719 Brown Street
Brooklyn, NY 11235

Barbara Harvey
2915 Cadillac Tower
Detroit, MI 48226

Teamster Convoy Dispatch
c/o Marilyn Tenttinen
7437 Michigan Avenue
Detroit, MI 48210

Teamsters for a Democratic Union
c/o Ken Paff
7437 Michigan Avenue
Detroit, MI 48210

Paul Alan Levy
Public Citizen Litigation Group
1600 20th Street, N.W.
Washington, DC 20009

Re: Election Office Case No. P-679-LU550-NYC

Gentlepersons:

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 Richard Volpe, secretary-treasurer of Local Union 550 and a candidate for delegate. Mr. Volpe alleges that an article in the March 1996 issue of the *Convoy Dispatch*, published by the Teamsters for a Democratic Union ("TDU"), contains false information about him. His protest is lodged against "Diana Kilmury Local 155, Michael Ruscigno Local 138 and Mike Caffrey Local 868 et al." He alleges that the publication is being used

against his candidacy and that it is “being given authenticity by the fact that Diana Kilmury is a sitting [IBT] V.P. and also a Co-Chair of the” TDU.¹

This protest was investigated by Regional Coordinator Bruce Boyens.

The *Convoy Dispatch* is not a union-financed publication. The article in question states that three relatives of Mr. Volpe had lucrative jobs on the film “Dead Man Walking” and suggests that they got them through Mr. Volpe’s friendship with Tom O’Donnell, who is “in charge of the movie local union in New York.” Mr. Volpe denies that the three persons are relatives and states that the story is “an outrageous lie.” He requests a full retraction before ballots are mailed for his local union.

The Election Officer finds that the article constitutes campaigning. It connects Messrs. Volpe and O’Donnell with the Hoffa slate and it appears on the same page as two other articles containing obvious campaign material against them. The Election Officer has consistently held that the **Rules** “neither prohibit nor regulate the content of campaign literature.” Rogers, P-518-LU373-SOU (February 21, 1991). Rather, as the Election Officer recently stated, “[t]he goal to be protected is free speech.” Newhouse, P-388-LU435-RMT (February 21, 1996). See Landwehr, P-201-LU795-MOI (November 15, 1995); Braxton, P-304-LU623-PHL (May 21, 1991) (“The model for free and fair Union elections is that of partisan political elections . . . The cardinal principle is that the best remedy for untrue speech is more free speech, with the electorate being the final arbiter.”)

Accordingly, this 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

¹The Election Officer has previously found that the TDU is financed exclusively by contributions permitted under the **Rules**. Halberg, P-019-LU174-PNW et seq. (September 6, 1995). In this protest, Mr. Volpe has not alleged any evidence to the contrary.

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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
Bruce Boyens, Regional Coordinator