

July 10, 1996

VIA UPS OVERNIGHT

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Wichita, KS 67210

Wesley Epperson
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Independence, MO 64052

James P. Hoffa
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Philip E. Young, President
Teamsters Local Union 41
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Kansas City, MO 64130

Kevin O'Neill
Labor Beacon
625 W. 39th Street, Suite 104
Kansas City, MO 64111

Ron Carey, General President
International Brotherhood of Teamsters
25 Louisiana Avenue, N.W.
Washington, DC 20001

Nathaniel Charny
Cohen, Weiss & Simon
330 W. 42nd Street
New York, NY 10036

John Sullivan, Associate General Counsel
International Brotherhood of Teamsters
25 Louisiana Avenue, N.W.
Washington, DC 20001

Re: Election Office Case Nos. P-817-LU41-MOI, P-834-LU41-MOI

Gentlemen:

Pre-election protests were filed pursuant to Article XIV, Section 2 (b) of the *Rules for the 1995-1996 IBT International Union Delegate and Officer Election ("Rules")* by Charles Mosqueda, president of Local Union 795, and Wesley Epperson, a member of Local Union 41, against the *Labor Beacon*, James P. Hoffa, a candidate for general president, and Local Union 41 and Joint Council 56 President Phil Young, who is also a candidate for International vice president.

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The protesters allege that two articles appearing in the June 15, 1996 issue of the *Labor Beacon* support the candidacy of Mr. Hoffa and attack the candidacy of General President Ron Carey. In addition, Mr. Mosqueda alleges that, as reported in the *Labor Beacon*, Joint Council 56 impermissibly financed a campaign rally in support of Mr. Hoffa's candidacy.

In response, Mr. Young states that he is not responsible for the content of articles printed in the *Labor Beacon*. Kevin O'Neill, publisher and managing editor of the newspaper, states that while the articles appearing in the *Labor Beacon* may have supported the candidacies of Messrs. Hoffa and Young and attacked Mr. Carey's candidacy, they do not violate the *Rules*.

Because these protests raised similar legal and factual claims, they were consolidated by the Election Officer.

These protests were investigated by Associate Regional Coordinator William Eisler.

The *Labor Beacon* is a bi-weekly newspaper/corporation owned by Mr. O'Neill. It is not union-financed. The newspaper has a circulation of 15,000. The *Labor Beacon's* mission, as stated in its media packet, is to be a "source of labor news and official union notices to Kansas City's organized labor community . . . by focusing on local news of particular interest to union members." No local unions or joint councils affiliated with the IBT subscribe to the newspaper, although between 25 and 30 complimentary copies of the publication are routinely dropped off at Local Union 41 and Joint Council 56 headquarters. Mr. O'Neill states that the only money ever received from IBT affiliates by the *Labor Beacon* were small holiday ads placed by Local Unions 541 and 831. However, the Young Support Team, the campaign organization for Mr. Young, paid \$90 for 200 copies of the June 15, 1996 issue of the *Labor Beacon* subsequent to its publication.

The protested articles are in the June 15 edition of the *Labor Beacon*. They are both written by Mr. O'Neill. On page 1 of the paper, the headline reads "Teamsters falling on hard times under Carey." The article reviews finances of the International union and quotes Mr. Young stating "It is amazing the damage that Ron Carey has done to our union." The article goes on to make statements about "Carey's Mob Ties," "A Terrible Master Freight Agreement," and Mr. Carey's defeat in the dues increase vote. The article ends stating that "Ron Carey is a detriment to the future of the Teamsters," but that Mr. Hoffa can "bring pride back to the Teamsters." The article is accompanied by a picture of Mr. Hoffa with Mr. Young. The caption states that it was a rally on Mr. Hoffa's behalf "hosted by Joint Council 56 and its president Phil Young." On page 3, the *Labor Beacon* contains an editorial by Mr. O'Neill entitled, "Carey is not the Reform candidate he sold himself as." The article is very critical of Mr. Carey, repeats several allegations about mob ties and compares him to former IBT General President Jackie Presser.

Mr. O'Neill states that he alone makes editorial judgments and decisions as to the content of the newspaper. He states that the articles appearing in the *Labor Beacon* are not intended to reflect

balanced reporting. He states that the protested articles appearing in the June 15, 1996 issue of the newspaper were prompted by the receipt of a press release sent to him on June 9 by the Young Support Team. An interview with Mr. Young was arranged by Mr. O'Neill and the two men later met and talked.

Article VIII, Section 8(a) of the *Rules* prohibits a union-financed publication or communication to “support or attack any candidate or the candidacy of any person.”

Article XII, Section 1(b)(1) of the *Rules*, provides that no union or employer may “contribute . . . directly or indirectly, anything of value, where the purpose, object or foreseeable effect of the contribution is to influence, positively or negatively, the election of a candidate . . .”

Here, the Election Officer's investigation found that the *Labor Beacon* is not a union-financed publication, but rather is a publication owned by Mr. O'Neill, an employer, intended for and disseminated to the labor community. As the Election Officer recently stated in Hoffa, P-743-IBT-SCE (May 23, 1996), appropriate First Amendment latitude must be given to such publications. “Articles contained in these publications do not violate the *Rules* unless candidates or committees acting on behalf of candidates control the editorial policies of the responsible entities. The ‘media employer’ exception has been comprehensively discussed in several prior cases and is well-established.”

Similarly, here, the Election Officer's investigation found no evidence that Mr. Hoffa, Mr. Young or any persons affiliated with Joint Council 56 or Local Union 41 exercised any control over the *Labor Beacon*'s editorial policies or the articles published on July 15. That occasional holiday ads were run in the *Labor Beacon* by Local Unions 541 and 838 and paid for by the local unions does not infer that the newspaper's editorial policies are controlled by candidates or committees acting on behalf of candidates and, thus, violative of the *Rules*.

As to Mr. Mosqueda's allegation that Joint Council 56 resources were used to fund a rally supporting Mr. Hoffa's candidacy, the sole evidence produced by Mr. Mosqueda is a photo caption appearing under the photograph on page 1 of the paper. The Election Officer's investigation found that, upon receiving a copy of the June 15 issue of the *Labor Beacon*, Nancy Stevens, who is Mr. Young's secretary, called Mr. O'Neill and told him that neither Local Union 41 nor Joint Council 56 sponsored the Hoffa rally, as stated in the article. A subsequent issue of the *Labor Beacon*, printed July 1, 1996, reads: “Correction: The caption below the photo of Jimmy Hoffa on the front page of the last issue of The Labor Beacon read that a picnic was hosted by the Teamsters Joint Council #56 and President Phil Young. The picnic was actually hosted by the Young Support Team. We apologize for this error.”

Finding that the *Labor Beacon* has retracted the report that Joint Council 56 funded the Hoffa rally, there is no evidence supporting the protester's claim.

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In consideration of the foregoing, these protests are 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
William Eisler, Associate Regional Coordinator