

November 5, 1996

VIA UPS OVERNIGHT & U.S. EXPRESS MAIL

James Buck, Trustee
Teamsters Local Union 745
1007 Jonelle Street
Dallas, TX 75217

Gill Johnson
2711 Canary Circle
Mesquite, TX 75149

F. Tyson Johnson
513 Ridgeview
Murphy, TX 75094

Clarence Knowles, Jr.
7231 Long Canyon
Dallas, TX 75249

Michael Kline
9515 Glengreen
Dallas, TX 75217

Allen Stanford
18325 State Highway 274
Kemp, TX 75143

Charles Rodgers
3809 Larkin Lane
Garland, TX 75043

T. C. Stone
P.O. Box 571
Kaufman, TX 75142

Bill Baker
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James P. Hoffa
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Troy, MI 48098

James Hicks
Hicks & Associates
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Bradley T. Raymond
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32300 Northwestern Highway, Suite 200

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Farmington Hills, MI 48334

Re: Election Office Case No. P-919-LU745-SOU

Gentlemen:

James Buck, trustee of Local Union 745, filed a pre-election protest pursuant to Article XIV, Section 2(b) of the *Rules for the 1995-1996 IBT International Union Delegate and Officer Election ("Rules")* against T. C. Stone, Charles Rogers, Clarence Knowles, Tyson Johnson, Allen Stanford, Michael Kline and Gill Johnson, all members of Local Union 745. Mr. Stone is the former secretary-treasurer of Local Union 745 and a current candidate for Southern Region International vice president. Mr. Rogers is the former president of Local Union 745. The remaining parties charged by the protest are former members of the Local Union 745 Executive Board.

Mr. Buck alleges that the facilities of Local Union 745 have been improperly utilized to promote the candidacy of James P. Hoffa for general president through extensive use of the union telephones and by storing and distributing Hoffa campaign materials. Mr. Buck also alleges other unspecified contributions by the charged parties. He further asserts that these activities are campaign contributions which the Hoffa campaign improperly accepted.

The persons charged by these protests maintain that the allegations are unsupported by any evidence. The Hoffa campaign specifically denies any knowledge of improper campaign activities at Local Union 745.

The protests were investigated by Regional Coordinator Dolores C. Hall. In addition to the assembly of pertinent documents, the investigation consisted of face-to-face interviews with the charged parties and several conferences with their attorney.

I. Factual Background

Local Union 745 maintains two union halls in the state of Texas, one in Dallas and one in El Paso. The local union has approximately 7,500 members. On August 21, 1996, the IBT placed Local Union 745 under trusteeship. Appointed Trustee James Buck took possession of the Dallas headquarters on August 22, 1996. The trustee recorded his initial physical entry into the Dallas union hall on videotape. The video also includes footage of the trustee's preliminary inspection and inventory of the union hall. A copy of this video was reviewed by the Election Officer.

A. Telephone Records

Shortly after the imposition of the trusteeship, a long distance telephone bill issued to Local Union 745 was received at the Dallas union hall showing that the following telephone calls were made from the union hall:

<u>Date</u>	<u>Recipient</u>	<u>Length</u>
8/5/96	Hoffa campaign	48 minutes
8/15/96	Rick Leebove	2 minutes
7/24/96	Les Jackson	16 minutes
7/25/96	Hoffa campaign	3 minutes
8/15/96	Rick Leebove	5 minutes

Richard Leebove is a consultant to the Hoffa campaign. Les Jackson, a member of Local Union 385, is the coordinator for the sale of Hoffa '96 campaign paraphernalia and a leader of the Hoffa campaign for the Florida area. Attempts were made to obtain additional telephone records. The long distance carrier for these calls, WorldCom, informed the Election Officer's representative that none of the prior telephone records are available to non-subscribers except by subpoena.

Several "Important Message" forms were found on the desk of T. C. Stone requesting that he return phone calls made by Mr. Leebove, Tom Pazzi, manager of the Hoffa campaign, and George Geller, an attorney representing the Hoffa campaign.

Additionally, the following calls were placed from telephone numbers assigned to the individuals listed below to the toll-free number maintained by Local Union 745 for use by its out-of-town members:

<u>Date</u>	<u>Caller</u>	<u>Approximate Length</u>
2/20/96	John Thomas	½ minute
4/18/96	Les Jackson	½ minute
4/18/96	Les Jackson	½ minute
4/19/96	Les Jackson	12 minutes

5/28/96 John Thomas	2 minutes
5/28/96 John Thomas	3 minutes
7/23/96 Les Jackson	½ minute
7/24/96 Les Jackson	½ minute
7/24/96 Les Jackson	½ minute
7/29/96 John Thomas	12 minutes

John Thomas is a member of Local Union 886 and the coordinator for the Hoffa campaign in Oklahoma.

The records also show a call from the El Paso union hall made to Bob Hogan on November 8, 1995. Mr. Hogan is the son of William Hogan, Jr., former candidate for general secretary-treasurer on the Jim Hoffa-No Dues Increase-25 & Out Slate. The purpose of this call, according to an accompanying note, was “to expedite (sic) the shipment [of campaign material] faster.” The note further invited the recipient of the message to call “if there was any problem” with the shipment. A call to Bob Hogan was also made from the Dallas union hall in February 1996.

B. Literature and Documents Contained in the Dallas Union Hall

Mr. Buck and his representatives stated that they discovered certain items of campaign literature and campaign-related paraphernalia in the Dallas union hall which supported Mr. Hoffa and some members of the Jim Hoffa-No Dues Increase-25 & Out Slate. The items listed below were found in various places around the union hall when the protester arrived and copies were provided during the investigation:

- (1) A Hoffa campaign placard and miscellaneous campaign literature located on a coffee table and a desk in the office of Mr. Rogers;
- (2) Miscellaneous Hoffa campaign literature items located on a coffee table and desk in the office of Mr. Stone;
- (3) A yellow "Hoffa Supporter" badge was displayed in the window of the office reception area;
- (4) Several stacks of campaign-related "three dollar bills" containing anti-Carey slogans, claimed to be found in the office of Mr. Stone. Each stack was two to three inches high;
- (5) A four-inch-high stack of unused raffle tickets stamped "Hoffa-Hogan-Singer Teamster Fundraiser;"
- (6) A quantity of address labels containing the words "Remove Ron Carey;"
- (7) A large roll of yellow stickers containing an anti-Carey message and an off-color animation;
- (8) Numerous copies of the *Labor Beacon*, dated June 15, 1996, containing articles favorable to Mr. Hoffa;
- (9) Several copies of a blank form used to solicit campaign volunteers entitled, "Hoffa Campaign '96 Volunteer Coordinator;"
- (10) Miscellaneous single copies of campaign literature, including newspaper clippings, notes, notices and material obtained from a national Internet provider; and
- (11) Three facsimile cover sheets addressed by Michael Kline to

Randy Thorn, a Local Union 745 steward at Kroger. Mr. Kline admits that he sent the faxes to Mr. Thorn together with accompanying Hoffa campaign material which he obtained at the IBT Convention. Mr. Kline's admission establishes that in August 1996, campaign-related literature was transmitted to Mr. Thorn using Local Union 745 equipment.

None of the charged parties could recall seeing any campaign-related material in the Dallas union hall.

The investigation additionally reveals that, in August 1996, a shipment of 4,000 pieces of a campaign pamphlet entitled, "The Ron Carey Slate Doesn't Need Strike Benefits," ("strike benefits pamphlet") was made to Local Union 19 in Grapevine, Texas. The shipment was addressed to T. C. Stone. The president of Local Union 19, Tom Burnette, acknowledged that he received several boxes of these materials, but had no prior knowledge of their shipment.

Upon further inquiry, it was disclosed that in August and September of 1996, thousands of copies of this pamphlet were purchased by the Hoffa '96 Campaign from Pathways Press of Warren, Michigan and sent to the 34 IBT local unions, including Local Union 19.¹

C. Documents and Literature Contained in the El Paso Union Hall

Mr. Buck designated Tom Salinas as his representative at the El Paso union hall. Upon entry of that union hall, Mr. Salinas discovered the following items related to the campaign of Mr. Hoffa:

(1) An invoice and a fax indicating that numerous items of campaign paraphernalia totaling \$2,221, with instructions to make checks or money orders payable to the "Hoffa Support Team" in care of Les Jackson in Orlando, Florida. The fax establishes that these materials were ordered in November of 1995. These items were found in the desk of the former business agent responsible for operating the El Paso union hall, Frank Martinez;

(2) A copy of a letter dated November 8, 1995 acknowledging a request for Hoffa campaign material with instructions for the remission of funds. The addressee of the letter is covered on the copy by a business card from Martin C. Guzman, Arizona Coordinator for the Hoffa '96 Campaign;

¹The following local unions were sent copies of the pamphlet: 880, 31, 362, 544, 75, 414, 41, 783, 347, 147, 20, 114, 554, 749, 701, 926, 1150, 182, 570, 639, 29, 901, 390, 769, 519, 19, 878, 5, 848, 763, 70, 222, 670 and 162.

(3) An accounting of various shirts and caps made for Les Jackson totaling \$619. The names “Frank Martinez/Charles Quinn” are shown at the top. Mr. Quinn is a city driver for Yellow Freight in El Paso. A check, drawn on the account of member Rodriguez, is attached to this accounting;

(4) A large number of fliers bearing the title, “Why Won’t Ron Carey Debate Jim Hoffa? (“debate fliers”);”

(5) A large supply of “Accredited Candidate Petition Individual Candidate” forms set up for the candidacy of Les Jackson for the office of Southern Region International vice president; and

(6) Miscellaneous single copies of campaign literature, memos and fliers relating to the campaign supporting Mr. Hoffa as a candidate.

Two members of Local Union 745 in El Paso, Reynaldo Sotelo and Angel Reyes, stated that former El Paso business agents Martinez and Barlow sold campaign clothing and paraphernalia supporting Mr. Hoffa from the El Paso union hall. Their statements indicate that Hoffa shirts and hats were sold during at least one general membership meeting.

Additionally, business agents Barlow and Martinez brought samples of similar campaign clothing and paraphernalia supporting Mr. Hoffa to the general membership meetings so that members could see what was available. At one general membership meeting, Mr. Sotelo complained about this practice as well as the sale of these items. A motion was carried to prevent future sales of campaign material at union meetings. Thereafter, Mr. Martinez posted a notice on the union bulletin board stating that Hoffa campaign material could be purchased from Mr. Quinn. Mr. Martinez also announced this from the meeting podium. Mr. Sotelo further reported that literature supporting Mr. Hoffa was distributed at the general membership meetings.

II. Use of Union Resources to Campaign

Article VIII, Section 11(c) of the *Rules* bars an IBT local union from providing its resources to a candidate:

Union funds, facilities, equipment, stationery, personnel, etc. may not be used to assist in campaigning, unless the Union is reimbursed at fair market value for such assistance, and unless all candidates are provided equal access to such assistance and are notified in advance, in writing, of the availability of such assistance.

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Article VIII, Section 11(c) prohibits the use of a union hall as a delivery point or for storage of campaign materials. McNamara, P-876-LU107-PNJ (September 18, 1996), aff'd, 96 - Elec. App. - 241 (KC) (September 20, 1996). The Election Officer similarly has prohibited the use of union resources in campaigning. McNamara, supra; Yeakel, P-762-LU773-PNJ (June 5, 1996) (barring display of campaign hats along with union hats in union office); Miller, P-504-LU147-MOI (April 23, 1996) (local union made its office available to a campaign as the location to pick up a raffle prize); Hoffa, P-865-IBT-MGN (August 26, 1996) (use of union telephone and use of office for brief meetings).

A. Dallas Telephone Usage

The telephone records that could be retrieved show regular uses of Local Union 745 telephones for campaign purposes. The calls indicate a wide range of communications with individuals associated with the Hoffa campaign. The charged parties claim that many of these calls were for legitimate union business. Thus, Mr. Stone states that many of the calls to Mr. Leebow related to information on protests. The Election Officer finds that the nature and extent of calls to persons who predominantly perform campaign functions render it likely that the bulk of time spent on such phone calls was for campaign purposes. In these circumstances, the Election Officer determines that telephone calls were placed and received in violation of Article VIII, Section 11(c) of the *Rules*.

The protester also contends that these activities occurred on union time. The *Rules* restrict the campaign activities of union employees to non-work times. Article VIII, Section 11(b) of the *Rules* protects the right of a union employee to “participate in campaign activities, including the right . . . to openly support or oppose any candidate, to aid or campaign for any candidate, and to make personal contributions.” However, the section further provides:

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 . . .

The parties charged in this protest state that they work long and irregular hours and that they have discretion to select their own break times. In Caraballo, P-653-LU272-NYC (April 3, 1996), the Election Officer held that a business agent who worked irregular hours and contended that a mid-morning delivery of campaign literature was during a self-declared break, was campaigning on personal time, as permitted by the *Rules*. The Election Officer cited evidence that the union employee’s work day averaged approximately nine or 10 hours a day; his work week extended to weekends and he was permitted to select when he takes a break and the length of his break. See also Hoffa, P-812-IBT-NYC (August 16, 1996); Hoffa, P-865-IBT-MGN (August 26, 1996), aff'd, 96 - Elec. App. - 232 (September 6, 1996).

The evidence here is insufficient to warrant a determination that the charged parties were on union-paid time while engaged in making or receiving these telephone calls.

B. Display and Storage of Campaign Literature and Paraphernalia at the Dallas Union Hall

The evidence also shows that the *Rules* were violated by using the Dallas union hall as a storage area for campaign literature and paraphernalia, thus constituting an improper use of union resources to support a campaign.

The videotape shows that campaign signs, campaign items and campaign literature were found in the offices of Mr. Stone and Mr. Rogers. Mr. Kline admits that he used Local Union 745 fax equipment for campaign purposes with respect to the communication with the Local Union 745 steward at Kroger, Mr. Thorn.

The protester has also claimed that items such as the "three dollar bills," the four-inch high stack of raffle tickets, the "Remove Ron Carey" address labels, the yellow stickers and the *Labor Beacon* article were found in the union hall and existed in sufficient quantities to indicate storage and display of campaign materials. The charged parties deny this conduct took place. Based upon a review of the videotape, the credible statement by the trustee that these items were located in Local Union 745's offices and the blanket denial of the charged parties, the Election Officer finds that these various items of campaign material were displayed and/or stored at Local Union 745's Dallas union hall, in the quantities previously established, in violation of the *Rules*.

C. Shipment of the "Strike Benefits" Pamphlet

The shipping of the strike benefit pamphlets to 34 IBT local unions around the country was not protested. However, this activity and the surrounding facts were revealed during the course of the Election Officer's investigation. The Election Officer has determined that it is important to discuss this issue and clarify candidates' and local unions' responsibilities in the context of this activity.

The Hoffa Campaign does not deny that thousands of pieces of campaign literature were ordered and sent by it. It contends that this activity is permissible under the decision of the previous Election Officer in Committee To Elect Ron Carey, P-612-IBT (March 28, 1991). In that case, the Durham-Mathis ticket mailed campaign literature to virtually all of the IBT local unions in sufficient quantities for distribution to stewards and members. The Election Officer found this conduct did not violate the *Election Rules*, stating,

The Election Rules are not violated when a candidate asks a Local Union to distribute campaign literature. The distribution of campaign literature is an

appropriate means of apprising Union members about the candidate and the issues on which they will be voting and is encouraged under the Election Rules . . .

The Election Officer noted, however, that the local unions must agree to distribute such literature in a non-discriminatory manner, and comply with requests from other campaigns.

The Election Officer reaffirms Committee to Elect to the extent that it permits candidates to send quantities of campaign literature to local unions for proper distribution in accordance with the *Rules* at Article VIII, Section 7. The opportunity for candidates to benefit from such distributions, when authorized, must be extended to every candidate for the office on an equal basis. It is both reasonable and necessary for the Election Officer to impose on candidates who take advantage of this benefit, the obligation to share in the responsibility of assuring that any literature sent to local unions for distribution is disseminated in accordance with the *Rules*.

The Election Officer will require all candidates sending campaign literature to IBT local unions for distribution to advise them, in writing, that campaign literature may be distributed only in a non-discriminatory manner through the use of a literature distribution table open to all candidates. The Election Officer recognizes that the Hoffa campaign, and perhaps other campaigns as well, has sent literature to supporters in a local union for distribution outside the confines of the local union. The Election Officer finds that literature destined for this type of distribution must be sent to a supporter's home address or to a campaign address. In this way, all questions about the storing of campaign material and other improper uses of union resources will be avoided. The Hoffa campaign has indicated it will comply with this procedure.

D. Posting of Campaign-Related Materials at Dallas

At least one Hoffa campaign placard was on display in the office of Mr. Rogers. A yellow "Hoffa supporter" badge was found on exhibit in the window of the office reception area. These items further violate Article VIII, Section 11(c) of the *Rules*. See Yeakel, P-256-LU773-PNJ (January 4, 1996), aff'd, 96 - Elec. App. - 57 (KC) (January 23, 1996).

E. Campaign Activities in El Paso

The Election Officer determines that significant campaigning activity occurred at the El Paso union hall. The documents relating to the ordering of various items of Hoffa campaign material, together with a large supply of the debate flier and the Les Jackson candidate petitions, establish a violation of Article VIII, Section 11(c). The sale of campaign items from the El Paso union hall similarly constitute a direct violation of the *Rules*.

The evidence further establishes a violation of the *Rules*, at Article VIII, Section 5(a), during a general membership meeting in El Paso. The *Rules* are designed to prevent campaigning at union membership meetings. The *Rules*, at Article VIII, Section 5(a), in relevant part, read as follows:

(3) The Local Union need not allot time for campaigning during any

of its meetings. However, if campaigning during such meetings is permitted, the Local Union shall notify all candidates for the positions for which such campaigning will be permitted of the opportunity to speak at least five (5) days prior to the meeting and shall divide the time equally between those candidates (or the candidates' credentialed representatives) who request an opportunity to speak. The order of appearance shall be determined by lot.

(4) A Local Union shall not discriminate or permit discrimination in favor or against any candidate in conjunction with its meeting or otherwise. This requirement shall apply not only to formal presentations by or on behalf of candidates but also informal campaign activities, such as, for example, comments on candidates during meetings . . .

The *Rules* thus set forth campaigning procedures for local union meetings which are non-discriminatory and pre-planned. An opportunity to campaign at a union meeting must be made equally available to all candidates, with advance notice. See Kapitula, P-1104-LU401-PHL (November 22, 1991).

At the El Paso general membership meeting, the *Rules* which prohibit discriminatory campaigning were completely ignored. Even after a complaint was registered and these improper sales and distributions were presumably halted, former business agent Martinez announced from the podium the name of the member from whom these items could be purchased or obtained. A wall of the union hall was later utilized to further reinforce this information, all in direct violation of the *Rules*. There was no showing that such access was made available to other candidates for International office.

Accordingly, the protest is GRANTED.

When the Election Officer determines that the *Rules* have been violated, she "may take whatever remedial action is appropriate." Article XIV, Section 4. In fashioning the appropriate remedy, the Election Officer looks to such factors as the nature and seriousness of the violation, the violation's potential for interfering with the election process, and which remedy will best protect the rights of members to a free and fair election.

The Election Officer directs as follows:

1. T. C. Stone, Charles Rogers, Clarence Knowles, Tyson Johnson, Allen Stanford, Michael Kline, Gill Johnson, James Barlow and Frank Martinez shall cease and desist from all conduct in violation of the *Rules*, including, but not limited to, the use of union telephones, the display and storage of campaign materials in the union hall, the posting of campaign material, improper

distribution of campaign literature and material, the selling of campaign paraphernalia from the union hall and at union meetings, and the use of other union facilities to campaign.

2. The Hoffa/Stone campaign are liable for the costs of the telephone calls determined by the Election Officer to be an improper use of local union resources, under the *Rules*. Therefore, within five (5) days of the date of this decision, the Hoffa/Stone campaign shall reimburse Local Union 745 in the amount of \$20 in order to disgorge this benefit.

3. Within three (3) days of the date of this decision, Local Union 745 shall post the attached "Notice to the Members of Local Union 745" on bulletin boards at the local union hall and on the outside doors. Within three (3) days, after such posting is complete, Local Union 745 shall file an affidavit with the Election Officer showing compliance with this order.

An order of the Election Officer, unless otherwise stayed, takes immediate effect against a party found to be in violation of the *Rules*. In Re: Lopez, 96 - Elec. App. - 73 (KC) (February 13, 1996).

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

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Dolores C. Hall, Regional Coordinator

NOTICE TO MEMBERS OF LOCAL UNION 745

The Election Officer has determined that Charles Rogers, Michael Kline, Clarence Knowles, Alan Stanford, Tyson Johnson, T. C. Stone, James Barlow and Frank Martinez have violated the Election Rules as follows:

1. Use of Local Union 745 telephones and fax equipment to campaign for Mr. Hoffa;
2. Use of Local Union 745 facilities to store campaign materials supporting Mr. Hoffa; and
3. Distribution of campaign literature and sale of campaign items supporting Mr. Hoffa at general membership meetings and in the union hall without making distribution available to all candidates on a non-discriminatory basis.

No union funds or facilities may be used to assist in campaigning unless all candidates are provided access to the assistance and are notified of the availability of such assistance in advance and in writing. No campaigning may take place at general membership meetings unless all candidates for the office are notified of the opportunity in advance and in writing.

If you believe a violation to the *Election Rules* has occurred, you may file a protest with the Election Officer at 400 N. Capitol Street, N.W., Suite 855, Washington, D.C. 20001; telephone (800) 565-VOTE or (202) 624-3500; facsimile (202) 624-3525.

Barbara Zack Quindel

This is an official notice which must remain posted through December 10, 1996 and must not be defaced or altered in any manner or be covered with any other material.