

October 11, 1996

VIA UPS OVERNIGHT

Roy McClam
178 Hargraves Avenue
Teaneck, NJ 07666

Dan DeSanti, Secretary-Treasurer
Teamsters Local Union 701
2003 U.S. Route 130, Suite B
North Brunswick, NJ 08902

James P. Hoffa
2593 Hounds Chase
Troy, MI 48098

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

Bradley Raymond
Finkel, Whitefield, Selik, Raymond
Ferrara & Feldman, P.C.
32300 Northwestern Highway, Suite 200
Farmington Hills, MI 48334

Re: Election Office Case No. P-940-LU701-PNJ

Gentlemen:

Roy McClam, a member of Local Union 177, filed a pre-election protest pursuant to Article XIV, Section 2(b) of the ***Rules for the IBT International Union Delegate and Officer Election ("Rules")*** alleging an improper use of Local Union 701 resources in distributing a "Hoffa & DeSanti" campaign flyer "[t]o all local union officers and business agents." Mr. McClam lodges his protest against Local Union 701, its president and candidate for Eastern Region vice president on the Jim Hoffa-No Dues Increase-25 & Out slate ("Hoffa slate") Dan DeSanti, and the Hoffa campaign.

Mr. DeSanti responds that through his own error, he faxed the flyer from Local Union 701's fax machine to his campaign headquarters. His headquarters, in turn, faxed it out to all local unions within Joint Council 73. He apologized for the error and offered to do whatever is appropriate to correct the matter.

Regional Coordinator Peter V. Marks, Sr., investigated this protest.

The flyer in question advertises a "Special Meeting" of the committee to elect Jim Hoffa

and Dan DeSanti to the IBT General Executive Board. Mr. McClam bases his protest on the fact that the copy in his possession bears a fax tag line from "Teamsters Union 701."

Mr. DeSanti admits that he asked his secretary to fax the flyer from Local Union 701's office to his campaign headquarters. Mr. DeSanti states, however, that further distribution of the flyer was by his campaign headquarters, not the local union.

The investigation corroborated Mr. DeSanti's statements. The Regional Coordinator reviewed Local Union 701's telephone bills from Bell Atlantic, and the records reflect the faxing of the flyer to the campaign office. The bills do not reveal the sending of the flyer to other local unions on September 4, 1996, the date the flyer was distributed within Joint Council 73.

The Regional Coordinator contacted John Finnegan, a Teamster retiree volunteer and the campaign office staffer who sent out the faxes, and he confirmed that the campaign office received the flyer from Mr. DeSanti at the local union, and that Mr. Finnegan faxed the flyer to the local union officers and business agents from the campaign office.

The investigation further revealed that the campaign office fax machine did not at that time print an ID line. Mr. Finnegan states that he removed Local Union 701's tag line for some of the local unions to which he sent the fax. Where he did not, however, the flyers faxed from the campaign headquarters only carried the original ID line from Local Union 701 as appears on Mr. McClam's copy.

Article XII, Sections 1(b)(1) and (3) prohibit a union from using its funds "to promote the candidacy of any individual." The *Rules* define campaign contribution broadly to include any direct or indirect contribution where the purpose, object or foreseeable effect of that contribution is to influence the election of a candidate. *Rules*, Definitions, 5. Mr. DeSanti admits that he utilized the local union's fax machine to fax the flyer to his campaign head-quarters. The Election Officer finds that Mr. DeSanti and Local Union 701 violated the *Rules*.

For the foregoing reasons, this 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 views the nature and seriousness of the violation, as well as its potential for interfering with the election process. Mr. DeSanti admitted that he used union resources and has stated that he is prepared to do whatever is necessary to rectify the violation.

The Election Officer orders the following:

1. Mr. DeSanti and Local Union 701 shall cease and desist from utilizing local union resources to use Union funds or other things of value, directly or indirectly to promote the candidacy of any individual.
2. Mr. DeSanti shall pay Local Union 701 the amount of \$5.00 to cover the cost of the

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use of the fax machine and phone line and the time of his secretary who sent the fax to his campaign headquarters.

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
Peter V. Marks, Sr., Regional Coordinator