

October 7, 1998

VIA FIRST CLASS MAIL

John Metz Slate
c/o Jim Smith
2833 Cottman Avenue
Philadelphia, PA 19149

Ronald Kubalanza,
Executive Director
Central States Health & Welfare Fund
9377 W. Higgins Road
Rosemont, IL 60018

George O. Suggs, Esq.
Wilburn & Suggs
1015 Locust
Suite 818
St. Louis, MO 63101

John Metz
302 Waterside Drive
Wildwood, MO 63040

James P. Hoffa
2593 Hounds Chase
Troy, MI 48098

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

Re: Election Office Case No. PR-316-CSF-EOH

Gentlemen:

John Metz, a candidate for general president, filed a protest pursuant to Article XIV, Section 2(b) of the ***Rules for the 1995-1996 IBT International Union Delegate and Officer Election ("Rules")*** against the Central States Pension Fund ("Fund"). The protester alleges that a brochure recently distributed by the Fund improperly contained campaign material. The Election Officer did not require the Fund to respond to the protest.

The protest was investigated by Election Office Counsel David S. Paull.

In support of the protest, the protester's representative submitted a seven page copy of a pamphlet entitled "Benefit Programs for the National Master Freight Teamster." As the title suggests, the brochure outlines the various benefit programs available to members working pursuant to this important national IBT collective bargaining agreement. The brochure contains the names of no candidates for International office and makes no reference to the rerun election, either directly or indirectly.

The protester does not contend otherwise. Instead, the allegation is made because "there is no explanation as to why the Trustees have chosen this particular time to do such a mailing"

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and because the brochure has "been distributed to all local unions without regard to whether the local has any members covered by the [National Master Freight Agreement]."

Pursuant to the **Rules** at Article VIII, Section 8(a), the Election Officer will not examine union-financed material unless some evidence is presented or is disclosed to support an allegation that a candidate has been expressly or inferentially supported or attacked. The Election Officer has consistently denied protests when the protester offers no evidence to corroborate and support allegations. Hoffa, PR-081-IBT-NCE (May 13, 1998). The protester bears the burden of proof to present evidence that a violation has occurred. **Rules**, Article XIV, Section 1.

In the instant case, the protester has presented no evidence that the protested brochure contained any material which implicated the **Rules**. Unless such evidence is presented, there is no basis to question the manner in which the brochure was distributed.

Accordingly, the protest is DENIED.

Any interested party not satisfied with this determination may request a hearing before the Election Appeals Master within one (1) 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, 444 North Capitol Street, NW, Suite 445, Washington, DC 20001, Facsimile (202) 624-3525. A copy of the protest must accompany the request for a hearing.

Sincerely,

Michael G. Cherkasky
Election Officer

cc: Kenneth Conboy, Election Appeals Master