

December 2, 1998

VIA FIRST CLASS MAIL

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

James P. Hoffa
2593 Hounds Chase
Troy, MI 48098

Hoffa Slate
c/o Patrick J. Szymanski, Esq.
Baptiste & Wilder
1150 Connecticut Avenue, NW
Suite 500
Washington, DC 20036

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

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

Re: Election Office Case No. PR-413-JMS-EOH

Gentlemen:

The John Metz Slate has 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 the Hoffa Unity Slate. The protester alleged that the Hoffa Unity Slate received contributions from law and accounting firms in violation of the ***Rules***. The protester also asserts that if the Hoffa Unity Slate claims that the legal expenditures relate to services performed in assuring compliance with the ***Rules***, the expenditures should be investigated because the amount is so large. The Hoffa Unity Slate denied the allegations.

The protester alleged that, because the Hoffa Unity Slate reported large amounts of debt owed to four law firms and one accounting firm and because in the Interim Campaign Contribution and Expenditure Report ("CCER") covering the period October 29 through November 10, 1998, the Hoffa Unity Slate made only one payment to one law firm, the debt has become a contribution. The protester asserted that the Hoffa Unity Slate owes these five firms an aggregate amount of \$510,271.97 and it is not usual or customary for firms to forgo collection of such large bills for extended periods of time.

Under the **Rules**,

If a candidate or candidate's campaign incurs a debt by loan, extension of credit, deferred payment terms, contingency fee arrangement or the like and fails to pay the debt, the debt shall be deemed a contribution made by the creditor to the candidate or the candidate's campaign, unless the creditor has made a commercially reasonable attempt to collect the debt.

Article XII, Section 1(b)(7). In reviewing issues concerning this section of the **Rules**, the Election Officer applies the analysis set forth in Hoffa, PR-061-RCS-EOH (April 16, 1998). First, it must be determined whether there has been a failure to pay the debt, and if such a failure is established, then it is necessary to review whether the creditors have made commercially reasonable attempts to collect the debt. To determine whether there has been a failure to pay a debt, the Election Officer then looks at the repayment history of the slate in question.

Applying the analysis to the instant case, there is no evidence that the Hoffa Unity Slate has failed to pay its debts. A review of CCERs filed by the Hoffa Unity Slate prior to the Interim CCER indicates that the Slate has made consistent, if somewhat irregular, payments to all five of the creditors in question. That the debt continues to exist and, in some instances, increase is not evidence of a failure to pay the debt, particularly since the Slate still exists and raises substantial amounts of money. To date, the Hoffa Unity Slate has not claimed that the expenditures in question were incurred for assuring compliance with the **Rules**, therefore, the Election Officer refuses to initiate any investigation into the expenditures. Further, the Election Officer recently concluded a thorough audit of the Hoffa Unity Slate finances and no irregularities in the legal or accounting expenditures were discovered.

Upon discussion with the Election Office and an explanation of the **Rules**, the protester decided to withdraw the protest. The Election Officer grants the protester's request and this protest is hereby WITHDRAWN.

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

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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, 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