

January 6, 1999

VIA FIRST-CLASS MAIL

Robert Hartzell
4652 SE 4th Avenue
New Plymouth, ID 83655

Don Kloss, Business Agent
Teamsters Local Union 670
P.O. Box 3048
Salem, OR 97302

Walter Engelbert, Secretary-Treasurer
Teamsters Local Union 670
P.O. Box 3048
Salem, OR 97302

James P. Hoffa
2593 Hounds Chase
Troy, MI 48098

Executive Board
Teamsters Local Union 670
P.O. Box 3048
Salem, OR 97302

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

Re: Election Office Case No. PR-414-LU670-EOH

Gentlemen:

Robert Hartzell, a member of Local Union 670, 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 Local Union 670 and Don Kloss, a business agent. The protester alleges that Mr. Kloss brought campaign literature to the Nestle's facility in Napa, Idaho, gave the material to Greg Martinez, a shop steward, and instructed Mr. Martinez to vote for Mr. Hoffa and to distribute the flyers to the Mexican workers at the facility. The protester contends that the flyers constitute improper endorsements for the Hoffa Unity Slate ("Hoffa Slate") by Local Union 670's Executive Board, in violation of the ***Rules***.

Walter Engelbert, secretary-treasurer, and Diana Franken, vice-president of Local Union 670, maintain that the campaign literature complies with the ***Rules*** regarding endorsements by individual members of a local union's executive board. Ms. Franken stated that she created the literature using her personal computer at home and that contributions from members of Local Union 670 were used for production expenses. Both Mr. Engelbert and Ms.

Robert Hartzell
January 6, 1999
Page 2

Franken maintain that no local union funds or resources were utilized in any aspect of the preparation or production of the campaign literature.

Mr. Kloss admits that he gave Mr. Martinez the campaign literature at issue. Mr. Kloss denies any allegation that he distributed the campaign literature or told Mr. Martinez who to support in the election, while visiting the Nestle's facility on union time.

The protest was investigated by Election Office Staff Attorney Kathryn A. Naylor.

Mr. Martinez stated that he received the campaign literature at issue from Mr. Kloss when they met around midnight in the parking lot of a Kentucky Fried Chicken in Caldwell, Idaho, which was a convenient time and location, given Mr. Martinez' swing shift schedule. Mr. Martinez denied the protester's allegations that Mr. Kloss told him how to vote or instructed him to distribute the literature to Mexican workers at the Nestle facility. Mr. Martinez stated that Mr. Kloss merely told him to encourage people to vote without identifying any specific candidate or slate.

As evidence of the alleged violation, the protester submitted a copy of the two-page endorsement. The first page informs members how to vote for the Hoffa Slate, by depicting a filled oval next to the slate on a sample ballot. Underneath the sample ballot, the following paragraph reads:

“Our Local Union needs the strength of the International Union.
Your contracts deserve more from the International Union. We
are convinced Hoffa can best service the needs of all workers!
We urge your support and vote for HOFFA UNITY SLATE!
VOTE THE HOFFA UNITY SLATE!”

On the second page, the general president candidates on all three slates are listed separately in three rows, with reasons to vote for Hoffa rather than the Leedham or Metz slates. In the following paragraph, the endorsement reads: “The members of Teamsters Local Union No. 670 Executive Board unanimously endorses the HOFFA UNITY SLATE and encourages (sic) you to mark your ballot for the HOFFA UNITY SLATE.” All the members of the executive board and all business agents are listed with their respective titles.

Article VIII, Section 11(b) of the **Rules** make clear that while union members, including officers, are free to endorse candidates, this can only be done in the member's individual capacity.” The provision also states, however: “The Union or a Local Union as such . . . may not endorse or otherwise advance a candidacy, even if all members agree on the endorsement or candidacy.” The **Rules** define “campaign contribution” as including “[a]n endorsement or counter-endorsements by an individual, group of individuals, or entity.” Definitions, 5(f).

Individual members of a local union's executive board or a local union, in their capacity as members of the IBT, may endorse candidates for International office, a particular candidate or slate of candidates. For example, in Moriarty, P-1071-LU677-ENG (November 15, 1991), a

Robert Hartzell
January 6, 1999
Page 3

letter sent to local union members stated that the ‘members of Teamsters Local No. 24 Executive Board have unanimously endorsed the R. V. Durham Unity Team.’ The letter was signed by the executive board members and noted their titles. The Election Officer found no violation because this was an endorsement by individual members of the board. Such campaign activity, however, may not be financed by union funds. Schauer, P-1251-LU421-MOI (November 19, 1996).

Individual endorsements are distinguished from endorsements by collective entities of the unions, such as the executive board or the local union as a body. Such entities cannot endorse any candidate or slate of candidates. Thus, a notice violated the **Rules** since it indicated endorsement by the local’s executive board: “Teamsters Local 673's Executive Board unanimously endorse the Shea-Ligurotis Action Team.” Custer, P-1098-LU673-CHI (November 18, 1991). Also, an improper contribution was found when a statement of the Executive Board of the local endorsed candidates for International office. Hoffa, P-954-LU53-EOH (September 23, 1996).

Here, in the campaign literature at issue, the members of the Local Union 670's Executive Board have endorsed the Hoffa Unity Slate in their capacities as individual members of the IBT, in compliance with the **Rules**. The investigation did not reveal any evidence that union funds were used either to prepare or distribute the campaign literature. Mr. Martinez corroborated Mr. Kloss’ assertions that he did not deliver the campaign literature to Mr. Martinez at the Nestle site and the investigation did not reveal any evidence that Mr. Kloss was on union time when he gave Mr. Martinez the campaign literature.

Based on the foregoing, 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,

Robert Hartzell
January 6, 1999
Page 4

Michael G. Cherkasky
Election Officer

cc: Kenneth Conboy, Election Appeals Master