

October 14, 1996

**VIA UPS OVERNIGHT**

Jack D. Cox, Secretary-Treasurer  
Teamsters Local Union 572  
450 Carson Plaza Drive  
Carson, CA 90746

Robert R. McClone, Secretary-Treasurer  
Teamsters Local Union 631  
307 Wall Street  
Las Vegas, NV 89102

Steve H. Burrus, Secretary-Treasurer  
Teamsters Local Union 995  
300 Shadow Lane  
Las Vegas, NV 89106

Richard Brook  
Cohen, Weiss & Simon  
330 W. 42nd Street  
New York, NY 10036

Gary Mauger, Secretary-Treasurer  
Teamsters Local Union 14  
305 Wall Street  
Las Vegas, NV 89102

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

**Re: Election Office Case No. P-1016-JC42-CLA**

Gentlemen:

A pre-election protest was filed pursuant to Article XIV, Section 2(b) of the *Rules for the IBT International Union Delegate and Officer Election ("Rules")* by Jack D. Cox, secretary-treasurer of Local Union 572. Mr. Cox alleges that the leadership of Local Unions 14, 631 and 995, and James P. Hoffa, a member of Local Union 614 and a candidate for general president, have conspired to deprive members of the slate headed by Ron Carey, IBT general president and a candidate for reelection, with an equal opportunity to make political presentations at a special meeting for members of the three local unions that was to be held on October 13, 1996.

Specifically, Mr. Cox contends that the Carey campaign was provided notice of an opportunity to participate in the event substantially later than the Hoffa campaign. The protester asserts that the

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notification disparity has allowed pro-Hoffa candidates greater preparation time and made it more difficult for pro-Carey candidates to attend. In addition, Mr. Cox alleges that the three charged local unions failed to notify the Carey campaign of the existence of this meeting when the campaign requested a schedule of upcoming meetings from each local union individually.

The charged local unions deny that the Carey campaign was intentionally subjected to disparate treatment. The charged parties state that an invitation was mailed to Mr. Carey at the IBT headquarters in Washington, D.C. by a secretary at Local Union 14 the same day invitations were mailed to all other parties. According to the charged parties, the secretary was unaware that the invitation should have been mailed to Carey campaign headquarters instead of to the IBT. When alerted to this oversight by the filing of this protest, Gary Mauger, secretary-treasurer of Local Union 14, immediately faxed a copy of the invitation to the Carey campaign. The charged parties assert that the Carey campaign received notice 17 days in advance of the event when Mr. Mauger faxed the invitation to the Carey campaign.

Regional Coordinator Dolly M. Gee investigated the protest.

The investigation revealed that on August 28, 1996, Local Union 14 mailed invitations to all slate representatives and independent candidates to attend and participate in a candidate forum scheduled for October 13, 1996. The local union submitted copies of the invitation letter to the Election Officer. The invitation to the Carey slate was mailed to Mr. Carey at the IBT headquarters in Washington, D.C. According to the IBT, the invitation was received at IBT headquarters on September 3, 1996.

On September 26, 1996, Mr. Cox filed this protest with the Election Officer. On that day, Regional Coordinator Gee contacted Local Union 14 to inquire why an invitation had not been sent to the Carey campaign. She spoke with Lynn Farley, Mr. Mauger's secretary, who stated that she had finalized and mailed the letter without consulting contact sheets provided by the Election Officer. According to Ms. Farley, she sent the invitation to IBT headquarters which she considered to be an appropriate address to mail correspondence to Mr. Carey. She states that she was unaware that the Carey campaign had a separate address. After her conversation with the Regional Coordinator, Ms. Farley immediately faxed the invitation to the Carey campaign. The fax had a cover sheet with a message from Mr. Mauger that read:

My apologies of the incorrect address of the mailing to you on August 28, 1996, my secretary mailed to the International Union in Washington.

Should you have any questions, please contact me.

1. Allegation of Discrimination Against the Carey Slate

The *Rules* are designed to ensure that candidates have equal access and opportunity to campaign at local union meetings and functions, if campaigning is allowed at all. Article VIII, Section 5(a) reads, in relevant part, 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.

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

The record in this matter indicates that all slates and independent candidates were notified of the upcoming event well before the five days required under Article VIII, Section 5(a)(3) of the *Rules*. The Carey campaign's invitation arrived at IBT headquarters by mail on September 3, 1996 and at the Carey campaign by fax on September 26. The candidate forum, advertised as a "political picnic," is scheduled for October 13, 1996.

Mr. Cox contends that the notice to the Carey campaign sent to Mr. Carey at his IBT office and not to Carey campaign headquarters was inadequate and afforded the other invited candidates a greater time to prepare and arrange their schedules. Mr. Cox is correct that campaign-related notices are more prudently sent to campaign offices. Under the circumstances of this matter, however, where such notices were required by the *Rules* and admittedly received by the IBT, the Election Officer finds that the notices sent to IBT offices were not for that reason rendered ineffective. See Buban, P-987-LU662-NCE (October 10, 1996). Therefore, the Election Officer finds that charged parties did not "discriminate or permit discrimination in favor or against any candidate" with respect to its invitation to slates and candidates to appear at its upcoming forum.

## 2. Allegation of Denial of Meeting Information

Mr. Cox also claims that the Carey campaign was denied a copy of the charged local unions' monthly meeting schedules. Article VIII, Section 5(b) of the *Rules* states:

Each candidate for International office has the right to request from the Local Union a list of the dates, times and places of its regularly

scheduled general or special membership meeting(s), excepting meetings for limited purposes such as voting on contracts or strikes, handling of grievances, etc. Such request shall be made in writing to the Local Union's Secretary-Treasurer and shall be honored within five (5) days.

On August 21, 1996, the Carey campaign requested lists of regularly scheduled and general or special membership meetings from the charged local unions. All three local unions responded, but none of them mentioned the candidate forum. The charged parties state that, at the time they received the requests, they had not yet finalized all the details of the forum. They also state that they did not consider the political picnic to be a special membership meeting because it was a combination social event and candidate forum that would be attended by members of three different local unions and their families and guests.

The Election Officer credits the fact that the charged parties did not believe that the candidate forum fell into the category of special membership meeting. The charged parties demonstrated that they did not intentionally attempt to mislead the Carey campaign by mailing invitations to the event at almost the same time that they replied to the campaign's request for meeting times. The Election Officer has determined that the notice received by the Carey campaign was not inadequate. Thus, the omission of the candidate forum from the meeting information replies did not disadvantage the Carey campaign.

Accordingly, the protest is DENIED.

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, D.C. 20001, Facsimile (202) 624-3525. A copy of the protest must accompany the request for a hearing.

Sincerely,

Jack Cox  
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Barbara Zack Quindel  
Election Officer

cc: Kenneth Conboy, Election Appeals Master  
Dolly M. Gee, Regional Coordinator