

November 1, 1996

VIA UPS OVERNIGHT

Hugh Thompson
International Brotherhood of Teamsters
25 Louisiana Avenue, N.W.
Washington, DC 20001

T.C. Stone
P.O. Box 571
Kaufman, TX 75142

Charles E. Rogers
3809 Larkin Lane
Garland, TX 75043

Michael Kline
9515 Glengreen
Dallas, TX 75217

Clarence Knowles, Jr.
7231 Long Canyon
Dallas, TX 75249

Allen Stanford
18325 State Highway 274
Kaufman, TX 75143

Bill Baker
318 Rash Lane
Terrell, TX 75160

Tyson Johnson
513 Ridgeview
Murphy, TX 75094

James Buck, Trustee
Teamsters Local Union 745
1007 Jonelle Street
Dallas, TX 75217

James P. Hicks
Hicks and Associates
1420 W. Mockingbird Lane, Suite 760
Dallas, TX 75356

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

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-1025-LU745-SOU

Gentlemen:

Hugh Thompson, a member of Local Union 600, 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 Charles Rogers, Michael Kline, Clarence Knowles, Alan Stanford, Tyson Johnson and Bill Baker, all members and former business agents of Local Union 745. With the exception of Mr. Baker, all members named in the protest are also former members of the Local Union 745 Executive Board.

Mr. Thompson alleges that the members of the Executive Board voted themselves salary raises, which "served as a subterfuge for the campaign contributions made by these individuals to the Hoffa campaign." In support of this allegation, the protester refers to Local Union 745's LM-2 report, which lists the salary increases. Further, the protester refers to the Campaign Contribution Expenditure Report ("CCER") filed by James P. Hoffa, a member of Local Union 614 and a candidate for general president, which allegedly indicates that each member of the Board contributed \$5,000.

The charged parties maintain that the allegation is not supported by any evidence and should be denied. The Hoffa campaign specifically denies any knowledge of any improper contributions.

The protest was investigated by Regional Coordinator Dolores C. Hall. In addition to reviewing the CCERs and pertinent documents, the Election Officer's investigators traveled to Dallas to conduct face-to-face interviews with the charged parties.

1. Factual Background

Local Union 745 has approximately 7,300 members located in Texas. On August 21, 1996, the IBT placed Local Union 745 under emergency trusteeship and appointed James Buck as trustee.¹ From 1989 until the appointment of the trustee, T.C. Stone was the secretary-treasurer and principal officer. The other officers were as follows:

Charles Rogers	President
Clarence Knowles	Vice president
Tyson Johnson	Recording secretary
Alan Stanford	Trustee
Michael Kline	Trustee
Gil Johnson	Trustee

¹The merits of the trusteeship have been disputed and are currently before United States District Court Judge David N. Edelstein, pursuant to the All Writs Act Order. See United States v. IBT, 96 Civ. 6328 (DNE) (August, 30, 1996).

All of the officers except Mr. Johnson were also employed as business agents. The local union employed eight business agents, including Jim Barlow, who was assigned to its El Paso office. All of these business agents, including former President Rogers, were appointed to their positions by Mr. Stone.

Mr. Stone is a candidate for Southern Region International vice president on the Jim Hoffa-No Dues Increase-25 & Out Slate. He has been a candidate since at least September 1, 1995. Mr. Stone has been a vocal and avid supporter of James P. Hoffa, a candidate for general president, and an outspoken critic of Mr. Carey. See, e.g., Jacob, P-060-LU745-EOH (July 21, 1995), aff'd, 95 - Elec. App. - 6 (KC) (August 14, 1995).

A. The Salary Increase

Prior to August 2, 1995, the officers and business agents of Local Union 745 were paid on a weekly salary in the following amounts:

T.C. Stone	\$2,150
Charles Rogers	\$2,100
Allen Stanford	\$1,800
Michael Kline	\$1,600
Tyson Johnson	\$1,600
Bill Baker	\$1,600
Jim Barlow	\$1,600
Clarence Knowles	\$1,600

Pursuant to the local union's bylaws, the secretary-treasurer has the power to employ business agents and set their salaries, with the approval of the Executive Board.² On

²Local Union 745's bylaws, at Section 8(A)(7), provide as follows with respect to the salaries paid to employees:

Subject to the approval of the Executive Board, the Secretary-Treasurer shall have the power to employ such assistants, either administrative, clerical or professional or special or expert service as may from time to time in his judgment be necessary. Such assistants shall be paid reasonable salaries and benefits as determined by the Secretary-Treasurer. Such assistants shall be assigned such duties as are appropriate in the discretion of the Secretary-Treasurer, and shall be subject to discharge or discipline in the discretion of the Secretary-Treasurer.

August 2, 1996, Mr. Stone spoke to each member of the Executive Board and polled him about giving a pay raise to the business agents. Mr. Stone states that he spoke to each person only briefly and probably did not even mention the amount of the raise he was proposing. He also states that he did not attempt to justify the increases. All of the Executive Board members consented to the increases. At his interview, Mr. Stone stated that he had given salary increases to the office staff a few months before and then received complaints from some of the business agents wanting increases as well. The agents had received increases in 1993 or 1994.³

On August 2, 1995, each of the business agents received a \$200 per week pay increase, regardless of their particular salary level. Two days later, on August 4, 1995, the Executive Board held a formal meeting with all the members of the Board present. The minutes of the August 4, 1995 Executive Board meeting provide as follows with respect to the wage increase:

The first order of business was the confirmation of a previous poll of the Executive Board approving an increase in salary for the Business Representatives. All Executive Board members reconfirmed approval of the previous poll. Trustee Stanford made a motion that the previous poll of the Executive Board approving a salary increase for the Business Representative be reconfirmed at this Executive Board meeting and become incorporated into the minutes as a permanent record. Trustee Johnson made a second to the motion. Motion carried unanimously.

No one could remember any discussion at the meeting of the amount of the raises, and there did not appear to be any discussion as to the reason for the raises or the amounts thereof.

The first Local Union 745 general membership meeting held after the pay raise was on October 1, 1995. At that meeting, the general membership approved the minutes of the Executive Board meeting of August 4, 1995, which contained the report concerning the pay raise action.

B. The Business Agents Fund

For approximately the last 30 years, the business agents of Local Union 745 have maintained a Business Agents Fund ("Fund"). The Fund was established with a partnership agreement, but it utilizes Local Union 745's federal tax identification number. Historically, the Fund has been supported by voluntary contributions automatically deducted from the weekly salary checks of the participating business agents. According to the business agents, one of whom was present when the Fund was created, the primary purpose of the Fund is to finance their reelection as local union officers every three years. They state that there is a tradition in the local union of not asking members for campaign money and, accordingly, there was a need for an alternative way of funding their reelection efforts. The only other previous use of the

³There seems to be some confusion over when the last raise for business agents was given. A few of the agents said that they had not had salary increases in 4½ years.

Fund that anyone could remember was, when solvent, to pay a benefit to retiring agents in the amount of \$1,000 for each year of service, up to a maximum of \$10,000.

According to the agents, decisions about expenditures are made through informal meetings or discussions among the agents. They do not keep minutes of their meetings or decisions. Debra Haddock, the local union's office manager, also oversees the paperwork and writes the checks for the Fund. She does not receive any compensation from the Fund for this work. Prior to August 2, 1995, the local union automatically deducted \$50 per week from the paychecks of each of the eight business agents, including Mr. Stone. The sum of \$400 per week was regularly deposited in the Fund's bank account by means of a check issued by Local Union 745.

Sometime in 1995 (although no one could remember the date and no records apparently exist showing the date), the business agents discussed raising the amount of the weekly automatic deduction to the Fund from \$50 to \$150. Mr. Stanford states that he raised the fact that the agents would be facing two elections in 1996: the elections for delegate to the IBT International Convention and the local union officer election. The agents decided to raise the amount of the deductions and someone notified Ms. Haddock.

Beginning August 2, 1995, the local union began deducting \$150 from the paycheck of each business agent, increasing the total amount paid into the Fund to \$1,200 per week. The local union then deposited \$1,200 per week into the Fund's bank account until the imposition of the trusteeship.⁴

The Election Officer has reviewed the bank records for the Fund for 1996. The Fund established a new checking account at Compass Bank on or about January 1, 1996. Check number 1001 was issued to Mr. Stone in the amount of \$8,118.34 on January 18, 1996. The check was endorsed by Mr. Stone and deposited in his personal account. The purpose of the check was to reimburse him for a personal payment he made to the Texas Conference of Teamsters, paying the Conference back for monies contributed to the Real Teamster Caucus ("RTC").

⁴At the time that the trusteeship was implemented, all assets of the Fund were in an account at Compass Bank, which held a balance of \$74,683.60. Both the trustee of Local Union 745 and the participants in the Business Agents Fund, including each member charged in this protest, have asserted that they are the rightful owners of the Fund. Because of these multiple claims, Compass Bank filed a Petition in Interpleader in Dallas County District Court on September 9, 1996. That suit is currently pending.

The RTC was created in 1994 to engage in political activities within the IBT. In Gilmartin, P-032-LU245-PNJ (January 5, 1996), aff'd, 95 - Elec. App. - 75 (KC) (February 6, 1996), the Election Officer found that all funds contributed to the RTC by several local unions and joint councils constituted prohibited campaign contributions, under the **Rules** at Article XII, Section 1(b), because it was "reasonably foreseeable" that such contributions would be used for the purpose of attacking or supporting candidates for election. The RTC was ordered to cease and desist from collecting any further monies from IBT subordinate bodies. The Election Officer noted that it could continue to accept voluntary dues or contributions from individual IBT members. Further, she ordered that the RTC return monies received from IBT subordinate bodies on or after November 1, 1994.

Also, on October 3, 1995, the IBT general president found that the use of IBT affiliate's funds to support the RTC violated the IBT International Constitution, and ordered the RTC to reimburse all funds received from affiliates.

Mr. Stone used some of his own personal funds to assist the RTC in making the required repayments. The check from the Business Agents Fund repaid Mr. Stone for his contribution.

On March 2, 1996, the Fund issued check number 1002 in the amount of \$280 to the order of Compass Bank. The monies were used to pay the business agents' dues to the International Teamster Women's Conference.

On March 15, 1996, the Fund wrote check number 1003 to Creative Candid, a commercial video studio, for \$1,685.63. The Fund had the studio make 1,000 copies of a VHS videotape supplied to the studio by the agents. The invoice named Local Union 745 as the customer. The tape itself, which lasts approximately five minutes, shows the opening scene of the 1973 film Patton, in which George C. Scott plays the title role of U.S. Army General George S. Patton. In the movie, General Patton gives a speech in front of a huge American flag on the need to fight fiercely against the Nazis. In this tape, however, Mr. Scott's voice is dubbed over so that General Patton appears to be giving a speech supporting Mr. Hoffa's campaign and urging his troops to fight Mr. Carey and his supporters. As such, the Election Officer finds the tape to be campaign material.⁵

On June 3, 1996, the Fund issued check number 1004 in the amount of \$13,378 to the order of Compass Bank. The check was signed by Mr. Stone and negotiated by Ms. Haddock to purchase a cashiers check paid to the order of the Internal Revenue Service. Mr. Stone states that this payment paid certain personal tax obligations of himself and Mr. Rogers. All the agents defended the use of the Fund for this purpose, saying it was their money; however, no one could remember any similar expenditure in the Fund's history.

⁵Although the invoice and check are in the amount of \$1,685.63, Mr. Stone shows an expenditure to this commercial video producer in the amount of only \$1,077.50 on his CCER report for the period beginning May 20, 1996 and ending August 20, 1996.

On July 2, 1996, the Fund issued check number 1005, signed by Ms. Haddock and made payable to Compass Bank in the amount of \$35,000. The money was used to purchase seven cashiers checks, one each for Ms. Haddock and Messrs. Stanford, Baker, Johnson, Rogers, Kline and Knowles. Each check was in the amount of \$5,000 and all were dated July 2, 1996. The purpose of this expenditure was to allow each of the payees to contribute \$5,000 to Mr. Stone's campaign for IBT International vice president. The CCER submitted by Mr. Stone for the period beginning May 21, 1996 and ending August 20, 1996, shows that Charles Rogers, Michael Kline, Clarence Knowles, Allen Stanford, Tyson Johnson, Bill Baker and Debra Haddock each made \$5,000 contributions to Mr. Stone's campaign between June 28, 1996 and July 5, 1996.

Ms. Haddock is neither a business agent, an elected official of Local Union 745 nor a contributor to the Business Agents Fund. She asked the business agents if they would give her \$5,000 from the Fund so that she could make a contribution in her name to help Mr. Stone's campaign. She did not have the money herself because of personal and family obligations. The agents agreed, claiming that it was in part because she had done so much work for the Fund without compensation.

2. Discussion

Article XII, Section 1(b) of the **Rules** states, in pertinent part:

No labor organization, including but not limited to the International Union, Local Unions and all other subordinate Union bodies, whether or not an employer, may contribute, or shall be permitted to contribute, directly or indirectly, anything of value, where the purpose, object or foreseeable effect of the contribution is to influence, positively or negatively, the election of a candidate . . . No candidate may accept or use any such contribution. These prohibitions extend beyond strictly monetary contributions made by a labor organization and include contributions and the use of the organization's stationery, equipment, facilities and personnel.

See also Rules, Definitions (5). Where the IBT or an affiliate is accused of making a campaign contribution through its activities, the "purpose, object or foreseeable effect" of the conduct must be examined in light of the union's legitimate activities and functions. Gilmartin, supra.

A. Campaign Contributions Made through Union Check-Off

The factual record shows that the Business Agents Fund engaged in three separate transactions that resulted in campaign contributions, within the meaning of the **Rules**:

- (1) The campaign contributions made to Mr. Stone's campaign by former business agents Rogers, Kline, Knowles, Stanford, Johnson, Baker and former employee Haddock;
- (2) The payment to Creative Candids for the Patton video; and

(3) The reimbursement by Mr. Stone to the Texas Conference of Teamsters to pay for the RTC obligation.

The protester contended that business agent contributions were made to the Hoffa campaign in violation of the **Rules**. The investigation revealed that the contributions at issue went to Mr. Stone's campaign. In addition, other campaign expenditures came to light in the course of the investigation. The Election Officer's authority to remedy a violation of the **Rules** disclosed by an investigation is not limited by the scope of the original protest. Hoffa, P-812-IBT-NYC (August 16, 1996); McNamara, P-876-LU107-PNJ (September 18, 1996), aff'd, 96 - Elec. App. - 241 (September 30, 1996).

Although the respondents argue that the money in the Fund belongs to them personally, the involvement of the local union in operating and administering the Fund makes contributions to the International officer election a violation of Article XII, Section 1(b) of the **Rules**. In Rockstroh, P-764-IBT-EOH (July 11, 1996), the Election Officer was faced with a similar union-administered business agent fund. Finding that contributions from the fund violated the **Rules**, she stated:

Although the Local 20 Fund is ostensibly a group of members who are joining together to make voluntary campaign contributions, the campaign contribution is being facilitated by the local union through a wage authorization mechanism. Thus, local union resources, e.g., accounting, bookkeeping, checks, are being indirectly used to make a campaign contribution. A local union employee made the deduction from the payroll check and cut a check to the Fund in the amount of the deduction. A local union employee or bookkeeper is responsible for the necessary record-keeping to ensure reconciliation of these deductions with Fund balances. In these and possibly other ways, the local union is providing resources to facilitate this type of voluntary fund. Therefore, the use of local union resources and personnel to facilitate the wage authorization to the Fund was a union contribution rendering contributions from such a fund to an International officer candidate a violation of the **Rules**.

The Election Officer also held that such funds for political purposes are also troublesome because of the potential for coercion of contributions:

However, whenever there is a formal fund established and administered through the local union administration, there is a greater chance that employees will feel compelled to make contributions to the fund in order to retain their positions or to curry favor with their employer. For this reason, the Election Officer believes that voluntary political contributions made directly from the employer (sic) to the International officer are preferable.⁶

⁶The word “employer” in the last sentence was published in error. The correct word is “employee.”

Here, all of the campaign contributions were made with Business Agents Fund monies. All of these monies were deposited in the Fund account through a voluntary check-off system administered by Local Union 745. The agents are all appointed by Mr. Stone, who also sets their salaries. The Fund's business was administered by a local union employee, who was not compensated for her separate work on behalf of the Fund. Thus, the Fund involves the use of local union resources in the making of campaign contributions, in violation of Article XII, Section 1(b) of the **Rules**.

B. Contribution of Union Funds

As to the contribution of \$35,000 from the Fund to the campaign of Mr. Stone, there is a separate violation of the **Rules** because the Election Officer finds that the monies were in fact local union funds transferred to a candidate by means of an invalid salary increase.

The **Rules** prohibit labor organizations from contributing to a campaign and correspondingly forbid candidates from accepting such contributions. Any scheme which is operated by a local union for the purpose of transferring union money to the campaign of any candidate must similarly be proscribed by Article XII, Section 1(b) of the **Rules**. Any other interpretation of the **Rules** would render meaningless one of the Election Officer's main responsibilities in supervising the election: the prevention of financing of election campaigns with union funds.

On the basis of the evidence presented, the Election Officer determines that the August 2, 1995 business agent salary increase was not a bona fide raise, but was an improper scheme to use local union monies to support candidates in the 1996 International election. This conclusion is supported by the following analysis.

First, the timing of the raise is suspect, in that it was implemented simultaneously with the business agents' decision to triple their weekly check-off to the Fund. Both the increase in wage and the first check-off of the increased amount was made on the same day as the telephone poll, even before the Executive Board meeting on August 4, 1995, which approved the increase.

Second, the raise was granted without the communication of a single timely justification. Mr. Stone did not provide any reason to the Executive Board during the August 2, 1995 poll or the August 4, 1995 meeting. The minutes of the Executive Board meeting contain no record of any discussion relating to the purpose, need or reasonableness of the salary increase. Nor were any grounds for the action apparently presented to the general membership at its meeting on October 1, 1995. Through this perfunctory procedure, Local Union 745 committed itself to \$83,200 in additional annual obligations, or the equivalent of \$10,400 per month.

Mr. Stone stated that the business agents had not had a raise since 1993 or 1994 and that the office staff had been granted a wage increase two to three months earlier. However, there was no explanation as to why the increases were necessary or why they were awarded at that time. The lack of any specific justification or explanation for the salary increases makes their timing all the more suspect.

Third, the across-the-board increase did not take into account the respective salary levels of the business agents. The gross pay of each agent differed substantially. Prior to August 2,

1995, Business Agents Knowles, Barlow, Baker, Johnson and Kline earned approximately 26% less than Messrs. Stone and Rogers. Mr. Stanford earned approximately 16% less than these former officers. Regardless of their current salary, each agent was granted a wage increase in the same amount. In turn, each Fund participant contributed an additional \$100 into the Fund. Again, these facts indicate that a primary purpose of the raise was designed to raise campaign monies.

Finally, the business agents all admit that the purpose of the increase in the check-off was, in part, related to the 1996 IBT International officer election. During a meeting in 1995, the agents discussed the need to finance not only the upcoming local union officer election, but also the International Convention delegate election. While there is no evidence of Fund expenditures to support any Local Union 745 candidate for Convention delegate, the admission of the former business agents concerning the purpose of the increased contribution is also indicative of the true purpose of the raise.

Under the **Rules**, union funds cannot be used for campaign purposes. Here, a wage increase was given across-the-board to eight business agents and was approved by the general membership without a word of justification or explanation. The amount of the increased contribution to the Fund extended for almost exactly the same time period as it took to accumulate the amounts ultimately given as campaign contributions. Mr. Barlow, who participated in the check-off, did not participate in contributing any amount to Mr. Stone's campaign. However, Ms. Haddock, a recipient of a \$5,000 check from the Fund, was given the money to make a contribution to the campaign. Under these circumstances, the Election Officer finds that the salary increase was used, at least in part, as a mechanism to make contributions to the 1996 International officer election, in violation of the **Rules**.

Accordingly, the protest is GRANTED.

3. Remedy

When the Election Officer determines that "any . . . conduct has occurred which may prevent . . . a fair, honest, open and informed election, the Election Officer 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.

Here, all of the Fund contributions discussed in this decision--the \$35,000 contribution to the campaign of Mr. Stone, the payment to Creative Candids and Mr. Stone's reimbursement for his payment to the RTC--are improper. Under these facts, Article XII, Section 1(b) of the **Rules** requires two different remedies.

First, the payment to Mr. Stone to reimburse him for the RTC contribution must be paid by Mr. Stone or his campaign into the court registry as part of the corpus of the Business Agents Fund. Mr. Hoffa's campaign, which was the beneficiary of the Patton tape, must reimburse and pay into the court registry the amount paid to Creative Candids. While the Election Officer does not determine here whether the Fund as a whole was proper and legitimate, she does find

that these two contributions are improper because of the use of union resources in administering the Fund.

Second, the contributions made by business agents Rogers, Kline, Knowles, Stanford, Johnson, Baker, former employee Haddock must be repaid by the Stone campaign to Local Union 745. These monies were never the personal property of the Fund participants. Rather, they were deposited in the Fund as part of an improper scheme to channel union funds for election-related purposes, a direct violation of the **Rules** at Article XII, Section 1(b) and Article VIII, Section 11(c).

Therefore, the Election Officer orders the following:

1. Charles Rogers, Michael Kline, Clarence Knowles, Alan Stanford, Tyson Johnson, Bill Baker, Debra Haddock and T.C. Stone, as well as any other Local Union 745 officers or agents, shall cease and desist from improperly utilizing union resources and from contributing union funds to any candidate or campaign.
2. Each of the \$5,000 contributions made by Charles Rogers, Michael Kline, Clarence Knowles, Alan Stanford, Tyson Johnson, Bill Baker and Debra Haddock between June 28, 1996 and July 2, 1996 to the campaign of Mr. Stone shall be returned to Local Union 745 within seven (7) days of the date of this decision.
3. The amount paid by the Business Agents Fund to Creative Candids, in the amount of \$1685.63, shall be deposited by the Hoffa campaign in the court registry, where the remaining assets of the Fund are being held, within seven (7) days of this decision.
4. The amount represented in check number 1001 in the amount of \$8,118.34, which reimbursed Mr. Stone for his contribution to the RTC, shall be deposited by him or his campaign in the court registry for the Fund within seven (7) days of this decision.
5. Within ten (10) days of the date of this decision, Mr. Stone is ordered to examine his CCER and make any necessary corrections or clarifications regarding his reported payment to Creative Candids in the amount of \$1,077.50.
6. The business agents, T.C. Stone and the Hoffa campaign shall, within three (3) days after the respective duties listed in this decision are completed, file affidavits with the Election Officer demonstrating their compliance with this order.
7. Within seven (7) days of the date of this decision, the respondents herein shall provide an accounting to the Election Officer of all income, expenditures and financial transactions of any kind of the Business Agents Fund for the period January 1, 1995 through December 31, 1995, and provide copies of all checks, deposits, income and disbursement journals, and paid invoices for that period. Any improper contributions discovered as part of the accounting shall be ordered returned to the local union or the corpus of the Fund, as appropriate.

An order of the Election Officer, unless otherwise stayed, takes immediate effect against a party found to be in violation of the **Rules**. In Re: Lopez, 96 - Elec. App. - 73 (KC) (February 13, 1996).

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
Dolores C. Hall, Regional Coordinator