

November 26, 1996

VIA UPS OVERNIGHT

James P. Hoffa
c/o Hoffa '96
1959 E. Jefferson Avenue, Suite 4H
Detroit, MI 48207

Ron Carey, General President
International Brotherhood of Teamsters
25 Louisiana Avenue, N.W.
Washington, DC 20001

John Sullivan, Associate General Counsel
International Brotherhood of Teamsters
25 Louisiana Avenue, N.W.
Washington, DC 20001

Ron Carey Campaign
c/o Nathaniel Charny
Cohen, Weiss & Simon
330 W. 42nd Street
New York, NY 10036

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

Re: Election Office Case No. P-1245-IBT-NYC

Gentlemen:

James P. Hoffa, a member of Local Union 614 and a candidate for general president, 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")* alleging that incumbent General President Ron Carey and the Carey campaign have been mailing campaign literature "using the IBT's mailing permit and ha[ve] not paid the IBT all postage funds due for these mailings."

The Carey campaign responds that it has paid the mailing house for the mailings.

New York City Protest Coordinator Barbara C. Deinhardt investigated this protest.

Mr. Hoffa alleges that the Ron Carey No Corruption-No Dues Increase Slate ("Carey slate") has recently mailed five different pieces of literature to the IBT membership. Mr. Hoffa states that:

[a]ccording to a memo issued by IBT Assc. General Counsel Sullivan, all mailings must be accompanied by a certified check for postage costs. If the Carey campaign has not complied with this provision then the IBT has extended credit or donated funds to the Carey campaign in violation of the *Rules*.

Article VIII, Section 7(a)(1) of the *Rules* requires the IBT to afford a reasonable opportunity to all candidates to have his or her campaign material distributed by the IBT at the candidates' expense. In affording that opportunity, Section 7(a)(3) requires the IBT to make available its bulk-mail permit for use by the candidates. Section 7(g) recommends that the IBT establish procedures to implement the requirement.

On October 15, 1996, the IBT sent notice to all candidates that the bulk-rate permit would be available for all candidate literature mailings. With respect to payment, the IBT's procedures require that "[t]he candidate shall be liable for all costs associated with the mailing. At least one day prior to the mailing, the candidate shall present to the General Secretary Treasurer a chashiers or certified check payable to the International Union to cover the postage for the mailing. The candidate shall be strictly liable for any postage deficiency or additional postage assessed by the Postal Service for their mailing." Such a provision ensures that the IBT does not advance expenses to candidates or campaigns.

On October 22, 1996, the IBT issued a memo to candidates stating, *inter alia*, that campaign mailings may be arranged directly with a mailhouse. In the memo, IBT Associate General Counsel John J. Sullivan states, "I have been informed that mailhouses often use their own account with the Post Office for nonprofit bulk rate mailings on behalf of qualified organizations." Under that procedure, the mailhouse makes a mailing at the nonprofit bulk rate for which the IBT is eligible, but payment for the postage flows from the candidate to the mailhouse to the Postal Service.¹ Thus, the memo stated, "[c]andidates may wish to make arrangements with their mailhouse to pay the cost of postage directly to the mailhouse which will in turn make the payment to the Postal Service. The Union has no objection to this procedure."

The investigation revealed that Parker Mailing Services has issued two invoices for services rendered to the Carey campaign. The IBT forwarded those invoices to the Carey campaign, and the record reflects that the Carey campaign has paid them. The Carey campaign provided copies of those checks to the Election Officer.

¹Such mailings still must carry the return address of the IBT, as addressed by the Election Officer in Atha, P-1241-RCS-CLE et seq. (November 25, 1996).

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Upon investigation the Election Officer finds that the Carey campaign has paid for its mailings and has not violated the *Rules*.

For the foregoing reasons, 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, 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
Barbara C. Deinhardt, New York City Protest Coordinator
Leroy Ellis, Jr., Stand Up for Teamsters Slate