

November 22, 1996

VIA UPS OVERNIGHT

Gary Standard
1005 Key Colony
Garland, TX 75043

Central States Pension Fund
9377 W. Higgin Road
Rosemont, IL 60018

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-1249-LU767-SOU

Gentlemen:

A pre-election protest was filed pursuant to Article XIV, Section 2(b) of the *Rules for the 1995-1996 IBT International Union Delegate and Officer Election* ("Rules") by Gary Standard, a member of Local Union 767. Mr. Standard alleges that the trustees of the Central States Health and Welfare and Pension Funds ("Funds") have made an impermissible campaign contribution by attacking the candidacy of Ron Carey, the incumbent general president and a candidate for reelection, in a mailer sent to IBT members.

Regional Coordinator Dolores C. Hall investigated the protest.

The Election Officer has previously investigated a substantially identical allegation. In Mims, P-1190-LU728-CHI (November 8, 1996), aff'd, 96 - Elec. App. - 276 (KC) (November 19, 1996), the Election Officer held that the communication issued by the trustees of the Funds did not constitute an impermissible, campaign-related attack on Mr. Carey's candidacy because the communication "was a legitimate exercise of the Funds' perceived responsibility to

provide information to its members” in response to severe criticisms of the trustees that appeared in an issue of *The Teamster*. In that case, the Election Officer determined that individuals publicly criticized by the IBT may respond in kind in order to counter such criticisms or level criticisms of their own, without violating the **Rules**.

The protester alleges that the protested mailing was timed to “sabotage” Mr. Carey’s campaign. The Election Officer considered this same assertion in Mims. In that case, she stated:

The Election Officer has considered the timing of the issuance of the Funds’ bulletin. While it comes at a critical time in the election process, the timing of the letter is reasonably related to the October 24, 1996 board meeting that determined that an immediate response to the November/December 1996 magazine article was required.

The Election Officer notes that the cover letter introducing the comparison does make reference to the Teamster elections, the political debate they have engendered and the “rhetoric of the election campaign.” While inclusion of this language could have a tendency to place the response itself in a political context, taking the material as a whole, the Election Officer finds that the material does not meet the standard of being for the “purpose, object or foreseeable effect of influencing the election.” Rather, the Election Officer finds that the purpose of this piece was to communicate with members as to what it believed to be inaccurate claims that were disseminated to the membership through the just-released issue of *The Teamster* magazine.

The protester has presented no new allegations or evidence to alter the Election Officer’s decision in this matter. 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

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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, 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,

Barbara Zack Quindel
Election Officer

cc: Kenneth Conboy, Election Appeals Master
Dolores C. Hall, Regional Coordinator