

January 11, 1996

VIA UPS OVERNIGHT

Michael Ruscigno
303 Summit Avenue
Jersey City, NJ 07306

Paul Levy
Public Citizen Litigation Group
1600 20th Street, N.W.
Washington, DC 20009

James P. Hoffa
2593 Hounds Chase
Troy, MI 48098

Re: Election Office Case No. P-170-LU138-EOH

Gentlemen:

A pre-election protest was filed pursuant to Article XIV, Section 2(b) of the *Rules for the 1995-96 IBT International Union Delegate and Officer Election ("Rules")* by Michael Ruscigno, a member of Local Union 138. Mr. Ruscigno challenges the adequacy and propriety of a Campaign Contribution and Expenditure Report ("CCER") filed by James P. Hoffa, candidate for International president, for the period beginning January 1, 1992 and ending May 20, 1995. It is further asserted that Mr. Hoffa may have received contributions from prohibited sources.

Mr. Hoffa's CCER was filed timely, on or before June 1, 1995. The protester specifically objects to the following items listed in the report:

- (1) The entry of a contribution from Michigan State Senator Michael O'Brien because Mr. O'Brien is an "employer" within the meaning of the *Rules*;
- (2) The entry of Mr. Hoffa's travel expenses for lack of detail;
- (3) The entry of a \$12,391.48 reimbursement to Mr. Hoffa for lack of detail;
- (4) The entry of contributions received from the sale of campaign paraphernalia because the listing does not include all reportable contributions and fails to properly identify the contributors;

- (5) The failure to list a regional campaign coordinator who the protester believes sold more than \$1,000 worth of campaign paraphernalia; and
- (6) The failure to file Supplemental Report No. 1.

Mr. Ruscigno refers to several other possible violations of the **Rules** which indirectly relate to the CCER but are not alleged as reporting violations. These include: (1) the "suspicion" that Robert Kirkpatrick, a member of Local Union 70, is an "employer" within the meaning of the **Rules** and that his activities in support of Mr. Hoffa constitute an improper campaign contribution; (2) the charge that two persons reported as having the same last name "may not be members, and may be employers;" and (3) an assertion that the facilities of Joint Council 56 were improperly used to support Mr. Hoffa's campaign.

Prior to the filing of this protest, the Election Officer, in a letter dated September 7, 1995, required Mr. Hoffa to demonstrate that State Senator O'Brien was neither "an employer or an employer representative or, in the alternative, to return the contribution he had made. Mr. Hoffa chose to return the contribution to State Senator O'Brien prior to the filing of the instant protest.

Prior to the filing of this protest, Mr. Hoffa also submitted Supplemental Form No. 1 for the period beginning January 1, 1992 and ending May 20, 1995.

On December 28, 1995, the Election Officer mailed to all candidates for International office, a copy of an "Advisory on Campaign Contributions and Disclosures," revised CCER reporting forms and Supplemental Form #1, and a detailed instruction packet as to how these forms should be completed. Although the protester pointed to some deficiencies in Mr. Hoffa's filings with the Election Office, since the Election Officer had yet to issue her Advisory, the revised reporting forms and the detailed instructions for completing CCERs, the Election Officer has determined that these deficiencies did not rise to the level of **Rules** violations.

On December 27, 1995, Mr. Hoffa provided a supplemental report containing the following information:

- (1) a description of the goods and services purchased by his campaign, greater than \$100, which comprise the \$12,391.48 reported as having been reimbursed to Mr. Hoffa;
- (2) information concerning reimbursements made to other individuals; and
- (3) an itemized list of vendors who were paid more than \$100 by credit card

In addition, Mr. Hoffa presented affidavits from Mr. Kirkpatrick and Mr. Slawson indicating that neither had sold campaign paraphernalia to prohibited contributors or sold more than \$100 worth of paraphernalia to any single person.

This supplemental report submitted by Mr. Hoffa has been filed with the original CCER and is available for inspection pursuant to Article XII, Section 2(e) of the **Rules**.

The protester also took issue with Mr. Hoffa's failure to itemize his travel expenses identifying his itinerary. The Election Officer has determined that this is not required under the **Rules**. There was no evidence presented to support the remaining allegations made by the protester.

Based upon the foregoing, the Election Officer concludes this protest is RESOLVED.

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 and 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 North 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
Regional Coordinators