

January 4, 1996

VIA UPS OVERNIGHT

Robert H. Newhouse
6486 Saulsbury Street
Littleton, CO 80123

Executive Board
Teamsters Local Union 435
2941 W. 19th Ave.
Denver, CO 80204

Roman R. Garcia
Secretary-Treasurer
Teamsters Local Union 435
2941 W. 19th Ave.
Denver, CO 80204

Re: Election Office Case No. P-253-LU435-RMT

Gentlemen:

Robert H. Newhouse, a member of Local Union 435, filed this protest pursuant to Article XIV, Section 2(b) of the ***Rules for the IBT 1995-1996 International Union Delegate and Officer Election ("Rules")*** against Local Union 435 Secretary-Treasurer Roman Garcia and the Local Union 435 Executive Board. The protester alleges that a Local Union 435 staffperson, on union time, asked a Local Union 435 member to circulate accreditation petitions for candidates on the James P. Hoffa slate.

Secretary-Treasurer Garcia responds that the local union receives campaign literature from both Mr. Hoffa and his opponent, Ron Carey. Mr. Garcia advises that unless members ask for literature, the local union does not distribute it. The Local Union 435 staffperson charged here with engaging in campaign activity on union time claims that she was on break when she asked the member, who had indicated his support for Mr. Hoffa, to circulate the petition.

The protest was investigated by Associate Regional Coordinator Zeik A. Seidman.

On November 15, 1995, during the morning, Local Union 435 Member Matt Knox went to the Local Union 435 hall to purchase a Teamsters T-shirt and sweatpants. Cindy Carroll, the

local union bookkeeper told him that the T-shirt was available, but not the pants. Mr. Knox then asked if the local union had "Hoffa hats" or if Ms. Carroll knew how to get these. Ms. Carroll said that hats were not available from the local union and provided Mr. Knox with the name of Mr. Hoffa's regional coordinator. She obtained the Hoffa campaign coordinator's phone number and provided it to Mr. Knox. After some discussion with Mr. Knox about union politics, she asked him if he would pass around a petition for Mr. Hoffa's accreditation. She handed two or three petitions to Mr. Knox.

The **Rules**, at Article VIII, Section 11(b), permit union members, including union officers, the right to participate in campaign activities and to openly support or oppose any candidate subject to the following restrictions:

[S]uch campaigning must not involve the expenditure of Union funds. Accordingly, officers and employees (and other members) of the Union may not campaign on time that is paid for by the Union. Campaigning incidental to regular Union business is not, however, violative of this section.

Thus, while a union staffperson may not campaign for a candidate for delegate or International officer during work, the **Rules** permit campaign activity that is incidental to work. Ms. Carroll engaged in this activity during her work day while transacting union business with Mr. Knox. While Ms. Carroll engaged in campaign activity during union time, the short portion of her conversation enlisting the Local Union 435 member in campaign activity during the course of transacting legitimate union business was incidental to that business, and thus not in violation of the **Rules**. See Walston, P-128-LU743-CHI (October 12, 1995).

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 North Capitol Street, Suite 855, Washington, D.C. 20001, Facsimile (202)

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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
Zeik A. Zeidman, Associate Regional Coordinator
Jonathan Wilderman, Regional Coordinator