

March 1, 1996

VIA UPS OVERNIGHT

Bob Jordan
6905 Archdale Street
Detroit, MI 48228

James P. Hoffa
2593 Hounds Chase
Troy, MI 48098

Lawrence Brennan, President
Teamster Joint Council 43
2801 Trumbull Avenue
Detroit, MI 48216

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

Re: Election Office Case No. P-269-LU337-SCE (DECISION ON REMAND)

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 Bob Jordan, a member of Local Union 337.

In this case, the protester alleged that James P. Hoffa, a candidate for general president, received improper campaign contributions from his employer, an IBT affiliate. It is alleged that Mr. Hoffa was permitted by his employer to participate in teleconference appeals before Election Appeals Master Kenneth Conboy during work hours.

The protester asserted that Mr. Hoffa's participation in two teleconference appeals was improper. The two appeals in question were: (1) an appeal of the Election Officer's consolidated decision P-203-IBT-SCE and P-234-IBT-SCE and (2) a second appeal hearing, referred to in the protest only by date of appearance before the Election Appeals Master. Because the appeal hearing in the second case was not specifically noted by case number, it was omitted from the Election Officer's ultimate determination.

During the course of the appeal hearing, the Election Officer's representative brought this to the attention of the Election Appeals Master. It was requested, as part of the final decision,

that the Election Appeals Master remand the matter to the Election Officer for consideration of the second case, which is Election Office Case No. P-231-IBT-SCE.

This matter was remanded for that purpose on February 12, 1996. The decision of the Election Appeals Master affirmed the Elections Officer's determination in all other respects. See In Re: Jordan, 95 - Elec. App. - 84 (KC) (February 12, 1996).

The applicable principle, as stated in the Election Officer's original decision and as affirmed by the Election Appeals Master, is that an IBT-affiliated entity is free to expend its resources to pursue a protest, as long as the purpose of the protest is to insure the proper implementation of the **Rules**. A local union is prohibited from sponsoring only those protests that take a position which is "clearly partisan" or which "incontrovertibly" engages in "advocacy on behalf of particular candidates."

Thus, it is necessary to examine the protest in order to make this determination. Mr. Hoffa's protest in P-231 related to a November 6, 1995 press release issued by the IBT concerning certain information contained in a membership poll. This information had previously been determined by the Election Officer to be an unlawful campaign contribution under Article XII, Sections 1(b) and 3 of the **Rules**. Mr. Hoffa's protest in P-231 was also granted as being an improper contribution by the Election Officer, and an appropriate remedy was ordered.

The Election Officer has examined P-231 in the context of her decision in P-269, as affirmed by the Election Appeals Master. There is no evidence that, in pursuing these allegations with respect to P-231, Mr. Hoffa took a "clearly partisan position" or incontrovertibly engaged in advocacy on behalf of himself or any other candidate. Rather, the protest was filed and the appeal pursued to insure that IBT union resources were not expended for an improper purpose, an institutionally appropriate endeavor under the **Rules**.

For the foregoing reasons, the protest in this decision on remand is DENIED as it relates to P-231.

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 serve 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, D.C. 20001, Facsimile (202) 624-3525. A copy of the protest must accompany the request for a hearing.

Bob Jordan
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Sincerely,

Barbara Zack Quindel
Election Officer

cc: Kenneth Conboy, Election Appeals Master
Bruce Boyens, Regional Coordinator