

February 15, 1996

VIA UPS OVERNIGHT

Roy T. Swallow
2249 Erika Drive
Broadview, IL 60153

Teamsters Local Union 705
1645 West Jackson Boulevard
Chicago, IL 60612

Re: Election Office Case No. P-352-LU705-CHI

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 Roy T. Swallow, a member of Local Union 705, against his local union. The protester alleges that following his request to the Election Officer to verify his eligibility to run for delegate, Local Union 705 purposefully submitted false information in order to delay the verification process.

Mr. Swallow claims that a person from the local union contacted his employer and inquired about nonpayment of dues for November 1994 and February 1995. According to the protester, Local Union 705 is aware that his dues are up to date because the local union has paid for four medical visits since June and is paying 50 per cent of his pension to his ex-wife. "If for any reason you dues are not paid," Mr. Swallow states, "you would never collect a dime from the Union."

The protest was investigated by Regional Coordinator Julie E. Hamos.

Local Union 705 held its nomination meeting on January 21, 1996. The protester's request for verification of eligibility, while dated January 8, 1996, was received by the Election Officer on January 17. The protester's non-TITAN local dues record indicated check-off payments were posted late for October 1994 and February 1995. In accordance with policy, the

Election Office investigation contacted Mr. Swallow's employer to determine whether Mr. Swallow's dues for those months were properly deducted and remitted to the local union. There is no evidence that the local union contacted the protester's employer for this purpose. Based on its investigation, the Election Officer found that the protester was eligible to run for delegate on January 19, 1996 and notified the protester of his status by regular mail on that date.¹ Mr. Swallow states that he received the verification on January 22. The protester states that he was told by another member that he could not be a delegate because he did not have his eligibility verification form from the Election Office at the nomination meeting. The protester did not get nominated at the meeting.

Article VII, Section 4(a) of the **Rules** states that "[i]t is strongly recommended that each candidate for any Convention delegate, alternate delegate or International Officer position request that the Election Officer verify his/her eligibility for the position in question sufficiently in advance of nomination . . ." Like many other potential candidates, Mr. Swallow followed this recommendation. These verifications are advisory only and are not required to be produced at the meeting. The **Rules** do not prevent a member from being nominated without having sought verification. On the contrary, Article VII, Section 1, which sets forth the qualifications necessary to run for delegate, does not require verification of eligibility. See also Article II, Section 5. Significantly, it was a delegate candidate--not the local union nor any representative of the Election Office--who told Mr. Swallow that he could not seek nomination without the eligibility verification.

Furthermore, there is no evidence that Local Union 705 obstructed the Election Officer's review of Mr. Swallow's eligibility. The investigation by the Election Officer shows that her staff followed normal procedure in contacting the protester's employer due to the further information needed regarding the late dues posting in his dues record.

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 and Watkins
885 Third Avenue, Suite 1000
New York, NY 10022
Fax (212) 751-4864

¹It is the practice of the Election Officer to notify members by regular mail if they are eligible to run for office, and by overnight mail if members are found ineligible.

Roy T. Swallow
February 15, 1996
Page 3

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
Julie Hamos, Regional Coordinator