

April 30, 1996

VIA UPS OVERNIGHT

Chris Schweitzer
10843 Lurline Avenue
Chatsworth, CA 91311

Members First Slate
c/o Larry Vajcek
9135 Arrington
Downey, CA 90240

Re: Election Office Case No. P-694-LU896-CLA

Gentlepersons:

Chris Schweitzer, a member of Local Union 896, filed a pre-election protest pursuant to Article XIV, Section 2(b) of the *Rules for the 1995-1996 IBT International Union Delegate and Officer Election ("Rules")* against the Members First slate of candidates for delegates from Local Union 896. The protester objects to two mailings by the Members First slate. She alleges that each mailing was sent to approximately 3,000 members and included a glossy, two-color campaign brochure. The protester asserts that the apparent expense of these mailings requires that the Members First slate disclose the sources of financial support for the slate. She alleges further that the second mailing improperly included a membership survey which confused some members who thought it was a ballot. The Election Officer deferred this protest for consideration post-election pursuant to Article XIV, Section 2(f)(2) of the *Rules*.

Jimmy Smith, Local Union 896 President, responded on behalf of the Members First slate. He denies that union funds were used to pay for the slate's campaign literature, in violation of the *Rules*.

Local Union 896 contends that the protest is untimely. As to the merits of the protester's allegation concerning the funding of campaign literature, Local Union 896 asserts that the *Rules* do not require financial disclosure by delegate candidates and that therefore, the slate should not be required to disclose campaign finances.

Regional Coordinator Dolly M. Gee investigated the protest.

On March 15, 1996, the protester received the protested first mailing from the Members First slate. The second mailing was delivered to her while she was out of town during the week of March 18, 1996. She advises that she reviewed the second mailing when she returned home on March 25, 1996. After receiving the second mailing, she made inquiries during the next three days as to whether the candidates had paid for the materials. The protester contends that she filed her protest on March 28, 1996 after receiving sufficient information to lead her to believe that the campaign materials were not paid for by the Members First slate.

Article XIV, Section 2(b) of the *Rules* requires that protests "be filed within two (2) working days of the day when the protester becomes aware of reasonably should have become aware of the action protested . . ."

The Local Union 896 delegate election was set for April 4, 1996. The short time limits are important to ensure that alleged violations of the *Rules* are quickly brought to the attention of the Election Officer to afford the greatest opportunity for applying an effective remedy if a violation is found.

The protester filed her protest concerning both mailings with the Election Office on April 1, 1996. Thus, the protester's complaint about the Members First slate mailing she received March 15, 1996 was undisputedly untimely. By her own admission, she received the second mailing on March 23, 1996 at the latest. She is not entitled to delay a protest in order to conduct her own investigation. Thus, her complaint about the second Members First slate mailing is also untimely.

The protester offered no excuse for delaying her protest insofar as it objected to the membership survey included in the second Members First mailing. She filed her protest at least six working days after receiving the second mailing. This allegation is also untimely.

Based on the foregoing, 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

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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, DC 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
Dolly M. Gee, Regional Coordinator