

May 1, 1996

VIA UPS OVERNIGHT

Robert Charles Millican, Jr.
3241 Waterfront Drive
Chattanooga, TN 37419

Pat Witzel
Teamsters Local Union 519
2306 Montclair Avenue
Knoxville, TN 37917

William Randall Copeland, President
Teamsters Local Union 519
2306 Montclair Avenue
Knoxville, TN 37917

Re: Election Office Case No. P-724-LU519-SCE

Gentlepersons:

A pre-election protest was filed pursuant to Article XIV, Section 2(b) of the *Rules for the IBT International Union Delegate and Officer Election ("Rules")* by Charles Millican, a member of Local Union 519 and candidate for delegate on the Ron Carey ("Carey") slate. Mr. Millican alleges that Local Union 519 violated the *Rules* by: (1) furnishing photocopying services to the opposing Restore the Pride With Hoffa ("Pride") slate and (2) permitting campaigning against a Carey slate member, Henry Pickett, at two local union meetings. The Election Officer is considering this protest post-election under Article XIV, Section 3 of the *Rules*.¹

This protest was investigated by Regional Coordinator Bruce Boyens.

1. Allegations with Respect to Photocopying for the Pride Slate

¹Mr. Millican filed this protest on April 12, 1996, after ballots were counted in the Local Union 519 delegate election on April 9. Under the *Rules*, this is a pre-election protest because it involves events that took place before the ballot count.

Mr. Millican states that on March 16 and 20, 1996, Local Union 519 staff assisted the Pride slate by copying campaign literature on the local union photocopier while on local union time. The local union responds that this allegation is untimely under the *Rules*. It also states that the Pride slate purchased this service from the local union at \$.03 per page, under an arrangement that is known and available to all members.

A. Timeliness

Mr. Millican states that he learned of these episodes on April 10, 1996 and filed his protest on April 12. Article XIV, Section 2(b) of the *Rules* requires that protests be filed within two working days of “the day when the protestor becomes aware or reasonably should have become aware of the action protested.” The Election Officer’s investigation revealed that Mr. Millican’s fellow slate member, Mr. Pickett, knew of the copying on the days that it occurred. There is, however, no evidence that Messrs. Pickett and Millican colluded to make a protest timely that was otherwise not. The Election Officer therefore finds that Mr. Millican filed his protest in conformity with the timeliness requirement of the *Rules*.

B. Allegations Concerning Photocopying

Local Union 519 states that it has for the last five years offered copying services to members at \$.03 per page. This service includes the time of local union staff to make the copies, if requested. The Election Officer’s investigation revealed that the Pride slate used and paid for this service on March 16 and 20.

Article VIII, Section 11(c) of the *Rules* provides,

Union funds, facilities, equipment, stationery, personnel, etc. may not be used to assist in campaigning unless the Union is reimbursed at fair market value for such assistance, and unless all candidates are provided equal access to such assistance and are notified in advance, in writing, of the availability of such assistance.

The Election Officer finds that the Pride slate used a photocopying arrangement that Local Union 519 has made available to all members on an equal basis since well before the current election process began. The Election Officer is satisfied that this arrangement is reasonable and nondiscriminatory and therefore should not be found to violate Article VIII, Section 11(c) of the *Rules*. Under virtually identical circumstances, concerning a local union photocopying policy, the Election Officer declined to find a violation. Wilson, P-157-LU579-NCE (January 15, 1991) (“It will not further the purposes of the *Rules* to find a violation based upon these facts.”).

2. Allegations of Campaigning at Local Union Meetings

On March 16, 1996, Mr. Millican attended a general membership meeting in Chattanooga, Tennessee. He states that upon adjournment, Local Union 519 President William Randall Copeland, a member of the Pride slate, publicly criticized Mr. Pickett for filing a grievance a few months earlier. According to Mr. Millican, Mr. Copeland stated that "any union official who would sign something like this should not be a union official or elected to anything." Mr. Millican told Mr. Pickett about the episode.

On March 24, 1996, Mr. Pickett attended a special meeting called by the local union in Knoxville, Tennessee, for members employed by United Parcel Service. According to Mr. Pickett, Mr. Copeland made the same criticisms of Mr. Pickett's grievance.

The Election Officer finds that these allegations are untimely. Mr. Millican attended the March 16 meeting himself. Therefore, the **Rules** required him to protest within two working days, whereas he waited 20 working days. Mr. Millican did not attend the March 24 meeting, but he encouraged Mr. Pickett's attendance by advising him of the criticisms at the March 16 meeting. In such circumstances, the Election Officer finds that Mr. Millican reasonably should have known what happened within a few days. Thus, filing 15 working days later was untimely.

For the reasons stated above, 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 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,

Robert Charles Millican, Jr.

May 1, 1996

Page 4

Barbara Zack Quindel

Election Officer

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