

September 25, 1996

VIA UPS OVERNIGHT

Dane Passo
6811 W. Roosevelt Road
Berwyn, IL 60402

Gerald Zero, Secretary-Treasurer
Teamsters Local Union 705
1645 W. Jackson Boulevard
Chicago, IL 60612

Ron Carey, General President
International Brotherhood of Teamsters
25 Louisiana Avenue, N.W.
Washington, DC 20001

Nathaniel Charny
Cohen, Weiss & Simon
330 W. 42nd Street
New York, NY 10036

**Re: Election Office Case No. P-921-LU705-CHI
CORRECTED**

Gentlemen:

Dane Passo, a member of Local Union 705, filed a pre-election protest pursuant to Article XIV, Section 2(b) of the ***Rules for the IBT International Union Delegate and Officer Election ("Rules")*** alleging that Gerald Zero, secretary-treasurer of Local Union 705, engaged in campaigning during a union meeting by showing an anti-Hoffa video tape during a stewards' meeting.

Mr. Zero states that the protest is untimely and that the video dealt with the convention, a matter of legitimate interest to the stewards. In addition, Mr. Zero states that the Hoffa campaign was sent a letter three weeks prior to the meeting giving them the opportunity to send in their own video of the campaign to be presented at the upcoming stewards' meeting.

Regional Coordinator Julie E. Hamos investigated this protest.

The Election Officer's investigation revealed that at Local Union 705's monthly stewards' meeting on August 21, 1996, Mr. Zero showed a videotaped presentation on the Convention. The videotape shown at the meeting was a 15-minute video produced by the Carey campaign for campaign purposes.

1. Timeliness

Article XIV, Section 2(b) of the *Rules* requires protesters to file “within two (2) working days of the day when the protestor becomes aware or reasonably should have become aware of the action protested.”

Mr. Passo did not file his complaint until seven days after the stewards’ meeting took place. “Nevertheless, the Election Officer has not treated time limits as an absolute jurisdictional requirement, but rather as a prudential restriction.” Hoffa, P-788-IBT-EOH (June 18, 1996); Blake, P-712-LU630-CLA (April 29, 1996). Given the seriousness of the allegations in this protest, the Election Officer finds it will better serve the underlying purposes of the *Rules* to resolve it on the merits.

2. Allegation of Campaigning at Union Meeting

The local union does not dispute that the video presented was slanted in favor of the Carey slate. The Election Officer has viewed the videotape shown at the stewards’ meeting. The tape showed scenes from the IBT Convention and was critical of James P. Hoffa, candidate for general president and William T. Hogan, Jr., candidate for secretary-treasurer. The tape was produced by the Carey campaign as a Carey campaign video. It is identified as such on the video. It was plainly campaign material.

The *Rules* are designed to ensure that candidates have equal access and opportunity to campaign at local union meetings and functions, if campaigning is allowed at all. The *Rules*, at Article VIII, Section 5(a)(4), provides:

A Local Union shall not discriminate or permit discrimination in favor or against any candidate in conjunction with its meeting or otherwise. This requirement shall apply not only to formal presentations by or on behalf of candidates but also informal campaign activities, such as, for example, comments on candidates during meetings, literature distribution at meetings, literature distribution tables, etc.

The *Rules* thus set forth campaigning procedures for local union meetings which are non-discriminatory. An opportunity to campaign at a union meeting must be made equally available to all candidates for a particular position, with advance notice. See Kapitula, P-1104-LU401-PHL (November 22, 1991).

The local union states that it afforded an equal opportunity to both the Hoffa campaign and the Carey campaign to submit a video covering the Convention to be shown during the August 21, 1996 stewards’ meeting. The local union contends that the Hoffa campaign was sent a letter several weeks before the meeting requesting that they send a video of the convention. The local union furnished a copy of the letter to the Election Officer.

The Election Officer’s investigation revealed that the letter to the Hoffa campaign was not addressed to the national Hoffa campaign headquarters but to its Chicago headquarters. The

Hoffa campaign states it did not receive such a letter. The Election Officer's investigator requested a copy of the invitation letter purportedly sent to the Carey campaign, but the local union did not produce such a letter.

The Election Officer finds that the Hoffa campaign was not afforded an opportunity to have a campaign opportunity similar to that provided the Carey campaign before the stewards. In addition, the Election Officer's review of the videotape indicates that this was actually a campaign opportunity for the Carey slate. Therefore, the Stand Up for Teamsters slate should also have been notified of its right to have a similar campaign opportunity.

For the foregoing reasons, the protest is GRANTED.

When the Election Officer determines that the *Rules* have been violated, she "may take whatever remedial action is appropriate." Article XIV, Section 4. In fashioning the appropriate remedy, the Election Officer views the nature and seriousness of the violation, as well as its potential for interfering with the election process. The Election Officer finds that the local union must afford the same opportunity to the other slates with candidates for general president and/or secretary-treasurer that was given to the Carey campaign.

The Election Officer orders the following remedy:

1. Local Union 705 shall cease and desist from discriminating or permitting discrimination against any candidate in conjunction with its meetings or otherwise.
2. Local Union 705 shall afford the Hoffa No Dues Increase slate and the Stand Up for Teamsters slate a campaign opportunity of 15 minutes at Local Union 705's October stewards' meeting. This opportunity may be used to make any type of presentation and is not limited to the showing of a videotape. Local Union 705 is directed, within three (3) days of the date of this decision, to send the attached "Notice to the Hoffa No Dues Increase Slate and the Stand Up for Teamsters Slate" by first-class mail. The Hoffa No Dues Increase slate and the Stand Up for Teamsters slate shall indicate their acceptance or rejection of this offer within three (3) days of receipt of the Notice and shall provide a copy of that acceptance or rejection to the Election Officer.
3. Within three (3) days of the date of this decision, Local Union 705 shall mail the attached "Notice to the Local Union 705 Stewards" advising the stewards of their rights and the campaign opportunity for other slates to be provided at the next stewards meeting.
4. Within seven (7) days of this decision, Local Union 705 shall file an affidavit with the Election Officer detailing its compliance with this order.

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:

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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,

Barbara Zack Quindel
Election Officer

cc: Kenneth Conboy, Election Appeals Master
Julie E. Hamos, Regional Coordinator

NOTICE TO THE HOFFA NO DUES INCREASE SLATE AND THE STAND UP FOR TEAMSTERS SLATE

Local Union 705 permitted the Carey campaign to show a 15-minute campaign videotape at Local Union 705 stewards' meeting on August 21, 1996.

The Election Officer has ordered Local Union 705 to afford a similar opportunity to the Hoffa No Dues Increase slate and the Stand Up for Teamsters slate to campaign for 15 minutes, by videotape or otherwise, during its October stewards' meeting.

Please advise the undersigned within three (3) days of receipt of this Notice if you wish to accept or reject this invitation.

Date

Gerald Zero, Secretary-Treasurer
Teamsters Local Union 705

This is an official notice which must remain posted for 30 consecutive days and must not be defaced or altered in any manner or be covered with any other material.

Approved by Barbara Zack Quindel, IBT Election Officer.

**NOTICE TO TEAMSTERS LOCAL UNION 705
STEWARDS FROM GERALD ZERO,
SECRETARY-TREASURER**

The *Election Rules* governing access to membership meetings by candidates for International office prohibit a local union from discrimination or permitting discriminating in favor of or against any candidate in conjunction with membership meetings or otherwise.

The Election Officer has determined that Local Union 705 permitted the Carey campaign to show a campaign video at the stewards' meeting on August 21, 1996 without giving a similar campaign opportunity to the other slates. To remedy the violation, the Election Officer has ordered Local Union 705 to afford a similar opportunity for the Hoffa No Dues Increase slate and the Stand Up for Teamsters slate to campaign for 15 minutes each, by videotape or otherwise, at the October 1996 stewards' meeting.

Date

Gerald Zero, Secretary-Treasurer
Teamsters Local Union 705

Approved by Barbara Zack Quindel, IBT Election Officer.