

January 13, 1998

VIA UPS OVERNIGHT

Fred Gegare
2166 Cathedral Forest Drive
Green Bay, WI 54313

Larry Irwin, President
Teamsters Local Union 662
Post Office Box 86
Eau Claire, WI 54702

James P. Hoffa Slate
c/o Patrick J. Szymanski, Esq.
Baptiste & Wilder
1150 Connecticut Avenue, NW
Suite 500
Washington, DC 20036

Ron Carey Slate
c/o Susan Davis, Esq.
Cohen, Weiss and Simon
330 West 42nd Street
New York, NY 10036

Re: Election Office Case No. PR-046-LU662-NCE

Gentlepersons:

Fred Gegare, a member of Local Union 75 and a candidate for vice-president on the Hoffa Slate, filed a protest pursuant to Article XIV, Section 2(b) of the ***Rules for the 1995-1996 IBT International Union Delegate and Officer Election ("Rules")*** against Larry Irwin, president of Local Union 662. Mr. Gegare alleges that Mr. Irwin posted two campaign stickers supporting Mr. Carey in his office at Local Union 662 and displayed a newspaper article attacking Mr. Hoffa. Mr. Gegare further asserts that Mr. Irwin used his office telephone to contact the Teamsters for a Democratic Union ("TDU") for campaign purposes. Finally, Mr. Gegare alleges that Mr. Irwin distributes campaign flyers from his office and transports campaign material in the trunk of a car for which Local Union 662 reimburses expenses.

Mr. Irwin admits that a Carey sticker is mounted on the case of his personal radio and that the present location of that radio is in his office at Local Union 662. He also states that he has pasted an article from a TDU magazine on his office wall which attacks the candidacy of Mr. Hoffa. He denies displaying any bumper stickers or other campaign materials, using the union telephone in violation of the ***Rules*** and all of the other allegations made by the protester.

The protest was investigated by Regional Coordinator Judith E. Kuhn.

The protester initially presented two witnesses, Dave Reardon and Huntz Larson, both members of Local Union 662. They observed the small campaign sticker and the TDU article which Mr. Irwin admitted he had posted. Mr. Larson stated that he also saw a bumper sticker,

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but could not recall its contents. The evidence indicates that the campaign sticker and the TDU article have been displayed for at least a period of several weeks.

Mr. Gegare also submitted a set of photographs of Mr. Irwin's office. One of the photos shows that a news article entitled "Who's Behind Junior Hoffa?" is attached to one of the walls. The pictures contain other views and subjects but they are generally out of focus and unidentifiable. The photographer was asked to assist in identifying the other subjects of the photos, but refused.

Additionally, Local Union 662 Secretary-Treasurer Jim Newell submitted telephone bills showing that Mr. Irwin used the union credit card to make several calls to the TDU. Mr. Newell stated that these telephone calls were "obviously" made for improper purposes, but submitted no evidence.

Mr. Irwin, recently elected to local union office for the first time, denies circulating any bumper stickers or flyers. He states that he telephoned Ken Paff and Diana Kilmury at the TDU offices on several occasions seeking advice on how to process the internal union charges that had been lodged against Mr. Newell. Mr. Irwin states that he did not discuss the election on any of these occasions. Mr. Paff confirmed that the telephone calls concerned the hearings relating to Mr. Newell and other basic union management functions such as "how to" publish a newsletter or conduct a union meeting. Mr. Irwin states that the purpose of these calls was already disclosed to the Local Union 662 Executive Board and that the expenditures have been approved.

The allegations made in this protest are primarily controlled by Article VIII, Section 11(c) of the **Rules** which prohibit the use of union funds or facilities to assist in campaigning unless equal access is provided. Article VIII, Section 11(b) of the **Rules** protects the right of union staff members to "participate in campaign activities, including the right . . . to openly support or oppose any candidate, to aid or campaign for any candidate, and to make personal contributions" as long as the activity does not cause an expenditure of union funds or a use of union resources.

The Election Officer has prohibited the use of union resources in campaigning even when such use is isolated or slight. Eby, PR-037-LU688-NCE (January 9, 1998), citing Olson, P-172-LU70-CSF (November 1, 1995) (use of union telephone for three calls of short duration to assist in campaigning during work time); Yeakel, P-762-LU773-PNJ (June 5, 1996) (barring display of campaign hats along with union hats in union office); Miller, P-504-LU147-MOI (April 23, 1996) (local union made its office available to a campaign as the location to pick up a raffle prize); Hoffa, P-865-IBT-MGN (August 26, 1996) (use of union telephone and use of office for brief meetings).

Mr. Irwin violated the **Rules** when he posted the Carey campaign sticker in his office and displayed the TDU article attacking Mr. Hoffa on the office wall. Similarly, the **Rules** do not permit a display of "Who's Behind Junior Hoffa?" on a local union wall, as this news article also

constitutes campaigning. There is no evidence Mr. Irwin displayed or distributed any bumper stickers or transported any campaign material in the trunk of his car or that the calls to the TDU were used for purposes which are improper under the **Rules**.

The protest is GRANTED with respect to the displays of the campaign sticker and the two newspaper articles and is DENIED in all other respects.

When the Election Officer determines that the **Rules** have been violated he "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. Here, the Election Officer orders that the following steps be taken:

1. Mr. Irwin is ordered to cease and desist from giving any further assistance to any campaign or candidate for International office which uses the resources or facilities of Local Union 662 or any other IBT affiliate.

2. Within five (5) days of receipt of this decision, Local Union 662 shall post the attached notice on its bulletin boards and prominently in the reception area at its union hall.

3. Within two (2) days of posting the notice as set forth above, Mr. Irwin is ordered to submit to the Election Officer an affidavit describing his compliance with this order.

An order of the Election Officer, unless otherwise stayed, takes immediate effect against a party found to be in violation of the **Rules**. In Re: Lopez, 96 - Elec. App. - 73 (KC) (February 13, 1996).

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

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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, 444 North Capitol Street, NW, Suite 445, Washington, DC 20001, Facsimile (202) 624-3525. A copy of the protest must accompany the request for a hearing.

Sincerely,

Michael Cherkasky
Election Officer

MGC:chh

cc: Kenneth Conboy, Election Appeals Master
Judith E. Kuhn, Regional Coordinator

NOTICE TO LOCAL 662 MEMBERS

The Election Officer has found that Local Union 662 President Larry Irwin violated the *Election Rules* by using his local union office to display campaign materials in support of Ron Carey, who has a slate of candidates for International officer positions running under his name.

You are advised that local unions and local union officers may not use their local union offices, equipment, resources or assets to assist or attack any candidate.

Date

Michael Cherkasky
Election Officer

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.