

June 19, 1998

VIA UPS OVERNIGHT

James P. Hoffa
2593 Hounds Chase
Troy, MI 48098

Ken Hall, Director
Parcel and Small Package Trade Division
International Brotherhood of Teamsters
25 Louisiana Avenue, NW
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Farmington, Hills, MI 48334

Russell Chandler, Secretary-Treasurer
Teamsters Local Union 175
Post Office Box 4405
Charleston, WVA 25364

Re: Election Office Case No. PR-080-LU175-SCE

Gentlemen:

James P. Hoffa, a candidate for general president, 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 Ken Hall. Mr. Hall serves as Director of the IBT Parcel and Small Package Trade Division and is a self-declared candidate for general president. The protester alleges that Mr. Hall used union resources to promote his campaign by announcing his candidacy at the Local Union 175 union headquarters in Charleston, West Virginia. Mr. Hall admits that he announced his candidacy at Local Union 175, but denies that the ***Rules*** were violated.

The protest was investigated by Regional Coordinator J. Griffin Morgan.

Mr. Hall does not dispute that on Sunday, April 5, 1998, he announced his candidacy for the office of IBT general president at a campaign rally held at the Local Union 175 hall. The investigation disclosed that the rally was attended by 350 to 400 people including members, their spouses and families, campaign staff, and media representatives. No membership meeting was scheduled for that date and none occurred.

According to Russell Chandler, secretary-treasurer of Local Union 175, the union hall is available to any group, including political campaigns, free of charge so long as a responsible sponsor signs a release form and "cleans up" after the event. Mr. Chandler submitted the release form signed by Mr. Hall as well as three other forms as examples of this policy in operation, all dated between February 14, 1997, and May 5, 1998. These release forms indicate

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that the organizations which have used Local Union 175's facility are a local affiliate of the United Mine Workers and a cub scout troop. Other than Mr. Hall, no IBT members, candidates or entities have used the local union facility.

Also on April 5, 1998, the same day as Mr. Hall's announcement, Mr. Chandler faxed the following message to all candidates, including the protester:

All candidates are advised that the Local 175 Union Hall is available for a campaign event. The usual practice of the Local Union is to make the hall available at no cost so long as the user cleans up afterwards.

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.

This rule means that a candidate may use the facilities of a local union so long as the candidate pays a reasonable fee for the use and all candidates have access on equal terms. The local must have a policy on using its facilities that is reasonable and nondiscriminatory." Millican, P-724-LU519-SCE (May 1, 1996); Wilson, P-157-LU579-NCE (January 15, 1991).

On this record, the Election Officer cannot conclude that it was reasonable to permit Mr. Hall to use the Local Union 175 facility free of charge. Although Local Union 175 has permitted various organizations to use its hall without cost, Mr. Hall is the first IBT-related candidate that it has allowed to do so. To permit Mr. Hall to use the facility at no cost is in violation of the **Rules** which requires that the union be reimbursed at "fair market value." Rockstroh, P-764-IBT-EOH (July 11, 1996) (permitting the use of a union facility by a group of retirees without charge does not establish a fair market value rate for use by a candidate).

Accordingly, the protest is GRANTED.

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. The Election Officer finds that Local Union 175 must charge Mr. Hall's campaign for his use of the facility on April 5, 1998, at the rate which it would normally charge candidates or, because such rate apparently does not exist, at fair market value. Fair market value consists of the monthly rental or the tax assessed

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value of the union hall amortized monthly over thirty years at eight percent (8%) interest, divided by the number of hours per month that Local Union 175 is open for business and multiplying that quotient by the number of hours the facility was used by Mr. Hall. Clark (Decision on Remand), P-756-LU464-CAN (May 20, 1996), aff'd, 96 - Elec. App. - 195 (GSB) (May 30, 1996).

The Election Officer orders the following remedy:

1. Local Union 175 shall cease and desist from making its facilities available to any candidate unless all candidates are provided equal access to such facilities, are advised by advance writing of the availability of such facilities, and reimburse the local union at fair market value. Mr. Hall shall cease and desist from using any facility of Local Union 175 to campaign unless the local union is reimbursed at fair market value. Within one (1) day of the date of this decision, Local Union 175 shall advise Mr. Hall, in writing, of the fair market value of the hall consistent with this decision. A copy of that notice shall be provided to the Election Office.

2. Within three (3) days of the date of this decision, Mr. Hall shall reimburse Local Union 175 for the use of its facility at fair market value.

3. Within five (5) days of this decision, Mr. Hall and Local Union 175 shall file affidavits with the Election Officer detailing their 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 (1) 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, Esquire
Latham & Watkins
885 Third Avenue
Suite 1000
New York, New York 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.

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Sincerely,

Michael G. Cherkasky
Election Officer

MGC:chh

cc: Kenneth Conboy, Election Appeals Master
J. Griffin Morgan, Regional Coordinator