

September 14, 1998

VIA FIRST-CLASS MAIL

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32300 Northwestern Highway
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Farmington Hills, MI 48334

Re: Election Office Case No. PR-181-JHS-EOH

Gentlemen:

The Hoffa Unity Slate filed a pre-election protest pursuant to Article XIV, Section 2(b) of the *Rules for the IBT 1995-1996 International Delegate and Officer Election* (“*Rules*”) against Joe McLean, a candidate for regional vice - president, Larry McDonald, a candidate for regional vice - president, John Riojas, a candidate for at-large vice - president, Kenneth Hollowell, a candidate for general secretary-treasurer, and Robert Spearman, a candidate for at-large vice-president. The Hoffa Unity Slate alleged that none of the charged parties filed their Campaign Contribution and Expenditure Report (“CCER”) and Supplement No. 1 for the month of June 1998.

This protest was investigated by Director of Campaign Finance Leslie Deak.

Under the *Final 1996 IBT International Officer Rerun Election Plan* (“*Rerun Plan*”), all candidates, slates, and independent committees must file a CCER and Supplement No. 1 on the 15th of each month that contains a report of the finances for the previous month. *Rerun Plan*, V.B.2. The Election Officer has strictly enforced the filing deadline and has previously imposed fines pursuant to authority under Article XIV, Section 4 of the **Rules** to “take whatever remedial action is appropriate,” after finding that the **Rules** have been violated. See Hoffa, P-770-LU743-EOH (June 21, 1996); Steger, P-827-IBT-EOH (Sept. 3, 1996) (candidate fined \$500 for submitting CCERs in an untimely fashion).

I. ALLEGATIONS AGAINST MR. McLEAN AND MR. McDONALD

Messrs. McLean and McDonald were nominated as candidates for Canada Regional Vice - Presidents in the supplemental nominations on June 29, 1998. They formed the Louis Lacroix Team Canada Slate, by the slate declaration deadline of July 13, 1998. Although they did not officially become candidates and form a slate until July 1998, Messrs. McLean and McDonald began fundraising in June 1998. Subsequent to the protest being filed, Messrs. McLean and McDonald filed CCER No. 8.

The protester has advised the Election Office that he wishes to withdraw these allegations in the protest. The Election Officer, finding that the withdrawal effectuates the purpose of the **Rules**, permits this portion of the protest to be WITHDRAWN.

II. ALLEGATIONS AGAINST OTHER CANDIDATES

Mr. Riojas filed his CCER No. 8 on August 11, 1998, well after the July 15, 1998 deadline. Mr. Hollowell filed his CCER No. 8 with the Election Office on August 31, 1998. Mr. Spearman filed his CCER No. 8 with the Election Office on August 28, 1998. All of these current candidates also ran in the initial election.

Mr. Spearman stated that he understood that his representative, Jeraldine Cheatem, had filed his CCERs in a timely fashion as she had done for previous reports. Mr. Hollowell stated that, in the initial election, CCERs reporting and his fundraising and expenditures were also prepared and filed for him by Ms. Cheatem. Because he personally claims that he was unfamiliar with his responsibilities.

The Election Office attempted to contact Mr. Riojas several times by telephone messages and facsimile. He did not respond to the protest.

It is of the utmost importance that CCERs and Supplement Form No. 1 are timely filed. The Election Officer finds the delay in submitting these reports a serious violation of Article XII, Section 2 of the **Rules for the 1995-1996 IBT International Union Delegate and Officer**

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Election (“**Rules**”) and Section VI of the *Advisory on Campaign Contributions and Disclosure*, revised November 1997. It is an abuse of the election process.

While the Election Officer understands that Mr. Spearman relied upon his representative in good faith, candidates are strictly liable for their representative’s actions (or inaction) in preparing and filing CCERs.

This portion of the protest is hereby 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.

In order to remedy this violation, within ten (10) days of the date of this decision, Mr. Spearman and Mr. Hollowell each shall pay a remedial fine of three hundred dollars (\$300.00) to the Election Office. Mr. Riojas shall pay a remedial fine of three hundred dollars (\$300.00) to the Election Office because of the additional effort that the Election Office expended to try to contact him and, ultimately, resolve this protest without his cooperation. These fines shall be utilized by the Election Officer for funding the rerun election.

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 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,

Patrick J. Szymanski
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Michael G. Cherkasky
Election Officer

MGC:mk

cc: Kenneth Conboy, Election Appeals Master