

OFFICE OF THE ELECTION SUPERVISOR
for the INTERNATIONAL BROTHERHOOD OF TEAMSTERS
1050 17TH STREET, N.W., SUITE 375
WASHINGTON, D.C. 20036
202-429-8683
844-428-8683 TOLL FREE
electionsupervisor@ibtvote.org
www.ibtvote.org

Richard W. Mark
Election Supervisor

December 5, 2016

By email to blmharvey@sbcglobal.net

Barbara Harvey
For TDU & Frank Halstead
1394 East Jefferson Avenue
Detroit, MI 48207

RE: Protest No. P-420-120316-NA (TDU & Halstead)

Dear Ms. Harvey:

We have received the election protest you filed under the Rules for the 2015-2016 IBT International Union Delegate and Officer Election (“*Rules*”). A copy of your protest is enclosed.

We have assigned your protest the number indicated above. Please use this number on all communications with us concerning this protest.

We have assigned your protest to Election Supervisor representative Jeffrey Ellison for investigation. Our investigator’s contact information is set forth at the end of this letter.

As required by the *Rules*, we are providing a copy of the protest to each person or entity that appears to be a subject of the protest. These persons and entities are listed at the end of this letter.

The *Rules* require that protests be investigated and decided promptly. Therefore, we request that all parties (including you, the persons or entities that are the subject of the protest, and all other interested parties) immediately provide our investigator with all information relevant to the allegation(s) contained in the protest, including the names and contact information of all witnesses and persons with information concerning the allegations in the protest, and all relevant documents.

All parties are required to cooperate fully with the Office of the Election Supervisor in the investigation of this matter. Absent extraordinary circumstances, no party may rely on evidence not provided by the party to the Office of the Election Supervisor in any appeal of the Election Supervisor’s determination of the protest.

Very truly yours,

Richard W. Mark
Election Supervisor

Election Supervisor Representative

Jeffrey Ellison, 214 S. Main St, Ste 212, Ann Arbor, MI 48104; (734) 761-4300;
EllisonEsq@aol.com

cc:

Bradley T. Raymond, General Counsel
International Brotherhood of Teamsters
25 Louisiana Avenue, NW
Washington, DC 20001
braymond@teamster.org

Frank Halstead
fwhalstead@hotmail.com

David J. Hoffa
1701 K Street NW, Ste 350
Washington DC 20036
hoffadav@hotmail.com

Ken Paff
Teamsters for a Democratic Union
P.O. Box 10128
Detroit, MI 48210-0128
ken@tdu.org

Barbara Harvey
1394 E. Jefferson Avenue
Detroit, MI 48207
blmharvey@sbcglobal.net

Fred Zuckerman Teamsters United
315 Flatbush Avenue, #501
Brooklyn, NY 11217
info@teamstersunited.org

Louie Nikolaidis
350 West 31st Street, Suite 401
New York, NY 10001
lnikolaidis@lcnlaw.com

Julian Gonzalez
350 West 31st Street, Suite 401
New York, NY 10001
jgonzalez@lcnlaw.com

David O'Brien Suetholz
Kircher, Suetholz & Grayson, PSC
515 Park Avenue
Louisville, KY 40208
dave@unionsidelawyers.com

Fred Zuckerman
P.O. Box 9493
Louisville, KY 40209
fredzuckerman@aol.com

BARBARA HARVEY
ATTORNEY
1394 EAST JEFFERSON AVENUE
DETROIT, MICHIGAN 48207
(313) 567-4228
blmharvey@sbcglobal.net

December 3, 2016

Richard Mark, Election Supervisor
Jeffrey Ellison, Esq.

Re: Post-election protest

Dear Msrs. Mark and Ellison:

This is a post-election protest on behalf of TDU and Frank Halstead, a voting member of Teamsters Local 572, who actively opposes the Hoffa-Hall 2016 slate. It arises from “informed voting” violations, originally charged in P-411 (Halstead), as further elaborated below. This protest is filed against the International Union, James P. Hoffa, Ken Hall, and the Hoffa Slate. It claims that the Respondents violated members’ right to an informed vote on the candidates by knowingly and wrongfully failing or refusing to perform their duties and violating their obligations under the Final Order and specific orders of the Independent Review Board and Independent Investigations Officer Joseph diGenova. In any election won by a narrow margin, informed voting violations take on powerful significance. This election, which was won by an extraordinarily narrow and unprecedented margin, is such a case. The violations are especially egregious because they involve the top two candidates on the Hoffa Slate and are founded on stunning evidence of corruption and criminal misconduct in the exercise of power at the highest levels of the IBT.

As custodian of records for the International Union, Ken Hall failed and refused to produce, and was responsible for destroying evidence requested and subpoenaed by the Independent Review Board and the Independent Investigations Officer, despite their repeated rejections of his responses as frivolous, meritless, obstructionist, and as knowing violations of his duties under the Final Order. The evidence was requested on two dates in early March 2016 and was required to be produced within 30 days. Some of the evidence requested was produced, some has been reported by the IIO to have been destroyed, and some has been withheld and apparently never produced, despite the issuance of subpoenas. On October 31, 2016, the IIO sent to Mr. Hoffa formal charges against Hall for obstruction of justice thereby “bringing reproach upon the Union,” a

serious offense under the Final Order. On November 3, 2016, the Government filed motion papers in court “to enforce the Judgment” issued in the Consent Decree litigation, by compelling the Union and Hall to comply with their duty to cooperate in IIO investigations under the Final Order. That motion is currently pending.

Hall is accused of engaging in the alleged misconduct with knowledge that the evidence was sought in connection with the IRB’s and IIO’s investigations of himself and other Hoffa Slate members and Hoffa appointees, involving conduct that he clearly had reason to know implicated Mr. Hoffa and other slate members, including Rome Aloise, John Murphy, and William Hamilton. Hall had reason to know that many of the accusations involved conduct constituting serious crimes.

Some of the conduct under investigation has been identified in the subpoena requests and other court filings as involving a bid-rigging scheme in the awarding of a pharmaceuticals contract to a vendor by the International Union’s Voluntary Employee Benefit Association for its own employees. All of the VEBA fund trustees are union officials. They are Ken Hall, Willie Smith (Hoffa’s executive assistant), Rome Aloise, William Hamilton, and John Murphy. Hall, Aloise, Hamilton, and Murphy were all candidates on the Hoffa Slate. Smith’s only connection to the International Union was and is his status as Hoffa’s executive assistant. (He is also a local union officer.) The vendor, represented by a long-time personal friend of Rome Aloise (Bertucio), had placed the *high* bid for the contract, but was granted permission by the Fund trustees to make a second bid. No other bidder was afforded the opportunity to submit a second bid. The second bid was based on IBT user data that was allegedly manipulated to allow the bidder’s second bid to become the low bid, and the company was awarded the contract on that basis. Before bids were submitted, Bertucio allegedly paid for a luxury golfing trip to Scotland for fund trustees and others, including Mr. Hoffa and Richard Leebove. Bertucio also gave a job to one of Mr. Hoffa’s sons, Geoffrey Hoffa, though he was unable, in deposition testimony, to identify Geoffrey Hoffa’s job duties. After his principal was awarded the bid, Bertucio allegedly rewarded the trustees and Mr. Hoffa another luxury golfing trip, this one to Ireland.

These and many other accusations of criminal wrongdoing against Aloise were detailed in charges by the IRB against Aloise that were sent to Mr. Hoffa and the GEB on February 10, 2016, with directions to either hold a trial and submit findings and remedial actions to the IRB by May 10, 2016 or to provide notice, within seven days, of why he was not planning to do so. But, to date, on information and belief, there has been no hearing. The reason that there was no hearing was that Rome Aloise requested, and James P. Hoffa granted an indefinite stay that, according to the IRO, the IBT and Hoffa had “actual knowledge” was improper and required to be denied.

In a letter sent on July 18, 2016 to Mr. Hoffa, Independent Review Officer Benjamin Civiletti accused Hoffa of granting an indefinite stay of IBT proceedings to

Aloise, at Aloise's request, based on the opening of a federal criminal investigation of Aloise. Civiletti explained that Hoffa and the IBT had actual knowledge that the Court of Appeals for the Second Circuit had held – 15 years ago – that the IBT constitutional provision allowing such stays does not permit such stays before the accused actually faces trial in court.¹ Mr. Civiletti informed Mr. Hoffa that granting the stay on such prohibited grounds was a serious violation of the Final Order, and he gave the IBT 20 days (until August 7, 2016) to inform him of the hearing date, and until September 15, 2016, to submit the Union's findings and remedial actions against Aloise. The Union failed to comply with the IRO's order. On August 9, 2016, the IRO issued notice to Aloise, with copies to IBT counsel, that he would hold a hearing on the charges on October 11, 2016. The hearing was later postponed to November 30, 2016, and, to TDU's knowledge, was postponed indefinitely following the resignation of IRO Civiletti. Mr. Civiletti has not yet been replaced.

TDU submits that the foregoing actions by the IBT, through its top two officers and possibly others, possibly at the behest of the Hoffa Slate, seriously violated the members' right to an "informed vote" in their officer election:

1. The entire voting membership, including members outside the Western Region, was entitled to know Aloise's guilt or innocence on charges that, if credited by an adjudicatory body, would have seriously undermined Mr. Hoffa and the entire Hoffa Slate as voteworthy candidates, for standing in solidarity with a racketeer rather than with the members whose contract rights and membership dues he so cavalierly exchanged for personal favors by employers and IBT vendors. Instead, Aloise would have been proven to be a deeply corrupt custodian of membership rights, having committed a long laundry list of crimes against the members he represented, within a small window of his recent tenure, one willing, for example, to renounce an important bargaining demand in contract negotiations in exchange for tickets to a Super Bowl Playboy Party, not to mention his willingness to engage in bid-rigging designed to restructure a service vendor's bid [for prescription services under the IBT's VEBA fund for its own employees] to be as high as possible and still be competitive.²

2. The entire membership was entitled to notice of charges and the supporting evidence for the charges "of corruption in the IBT including, but not limited to, bribery, embezzlement, extortion, loan-sharking, violations of the Landrum Griffin Act, the Taft Hartley Act, acts of racketeering and allegations of organized crime association,"³ that presumably would have been filed and become public, before ballots were mailed, had Ken Hall not wrongfully withheld, refused to produce, and even destroyed evidence requested and subpoenaed by the IRB and the IIO. Members were

¹ *U.S. v. IBT ("Carey and Hamilton Discipline")*, 247 F.3d 370, 387 (2d Cir. 2001).

² Affidavit of IRO Special Counsel Celia Zahner (Aug. 29, 2016) - *U.S. v. IBT*, DE #4519, ¶10.

³ *Id.* ¶ 2.

entitled to know of the charges and evidence *before* they voted in the election, to assess it, for themselves, and to decide, for themselves, whether they wanted to elect the Hoffa Slate, in the light of the withheld and destroyed evidence -- quite apart from any ultimate formal findings of guilt or innocence.

3. Every Teamster member who was an IBT employee at the time of the election had a legally enforceable interest in the financial soundness of the IBT's VEBA health benefit trust for IBT employees. The VEBA plan participants were *entitled* to know of the charges and supporting evidence in "the awarding of contracts to a service provider for the IBT's VEBA Trust and golf trips taken by IBT officials and a facilitator for the service provider which was awarded the contracts with the IBT's VEBA Trust"⁴ They were entitled to know of the charges and evidence *before* they voted in the election, to assess it, for themselves, and to decide, for themselves, whether they wanted to elect the implicated candidates, or any other candidates on the Hoffa Slate, just as the rest of the members were similarly entitled, with special urgency, given that Hoffa Slate candidates Ken Hall, Rome Aloise, John Murphy, and William Hamilton were four of the five Fund trustees who allowed the bid-rigging scheme in these members' health benefits plan; and James P. Hoffa, himself, was rewarded for the bid, as the principal represented by Willie Smith, with the gift of two luxury golfing trips to Scotland and Ireland, as well as a job for one of his sons. The suppressed or destroyed evidence may well have persuaded many members that they did not want to be governed by persons of such character, regardless of the ultimate outcome of charges based on the evidence. And, had Aloise been convicted before VEBA plan participants had voted, the credited evidence against Aloise, *who continues to serve as a Fund trustee to this day*, would surely have stunned them and perhaps even jeopardized the Fund by causing a crisis of confidence in its management and their mass withdrawal as plan participants.

4. Mr. Halstead, as a candidate on the Teamsters United Slate for Western Region VP, who fell just three votes short of the 5% required for nomination, may have suffered personal injury from the informed voting violations. A GEB or IRB decision on the charges against Aloise before the Convention, by the May 10, 2016 deadline that Hoffa originally agreed to honor, may have powerfully changed the nomination dynamics in the Western Region, allowing that election to be contested.

Respectfully submitted,

/s/

Barbara Harvey, Esq.,
Attorney for Protestor

⁴ *Id.* ¶ 4.