



OFFICE OF THE ELECTION OFFICER
% INTERNATIONAL BROTHERHOOD OF TEAMSTERS
25 Louisiana Avenue, NW
Washington, DC 20001
(202) 624 8778
1 800 828 6496
Fax (202) 624 8792

Michael H Holland
Election Officer

November 21, 1990

Chicago Office:
% Cornfield and Feldman
343 South Dearborn Street
Chicago, IL 60604
(312) 922 2800

John B Wilson
4304 Oldwyck Drive
Janesville, WI 53546

Brendan F Kaiser
Secretary-Treasurer
IBT Local Union 579
2214 Center Avenue
Janesville, WI 53546

Re: Election Office Case No. P-033-LU579-NCE

Gentlemen

A pre-election protest was filed pursuant to Article XI of the Rules for the IBT International Union Delegate and Office Election, revised August 1, 1990 ("Election Rules") In his protest John B Wilson alleges that the Election Rules were violated by a letter from the Local Union Secretary-Treasurer, on union stationery, which disparages his slate for the positions of delegate and alternate delegate to the 1991 IBT International Convention

The investigation of this protest revealed the following facts James B Wilson is a member of Local Union 579 and an announced candidate for delegate to the 1991 IBT International Conventions running on the "Members First" slate On August 21, 1990, Mr Wilson and seven other members and supporters of the Members First slate wrote a letter to Wisconsin Vision & Hearing which was critical of a vision benefits program arranged by Local Union through the Central States Vision Plan The letter does not refer to the Members First slate

The Secretary-Treasurer of the Local Union, also a candidate for delegate, responded to the August 21, 1990 letter, by letter dated October 20, 1990 While the Local Union Secretary-Treasurer was entitled to respond to the August, 1990 letter, including criticizing the comments made in that letter, the October 20, 1990 letter went beyond such criticism It specifically referred to and disparaged the Members First slate by slate name

The October 20, 1990 letter was on Local Union stationery and was distributed to approximately 40 members who work at the Janesville Auto Transport yard In addition, the Secretary-Treasurer distributed the letter to all stewards and committee persons of the Local Union soliciting letters of support for "the Secretary-Treasurer "

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Article X, Section 1 (b)(3) of the Election Rules states that "[n]o Union funds or goods shall be used to promote the candidacy of any individual." That section goes on to state that "[t]he use of Union's official stationery with the Union's name, insignia, or other mark identifying the Union is prohibited irrespective of compensation or access" While the Secretary-Treasurer has the right to engage in campaign activities, including criticism of other candidates, he may not use the Local Union's official stationery or its resources for that purpose. While the Secretary-Treasurer has a right to make critical statements regarding policy positions taken by other members of Local 579, and use Union resources for such statements, he may not combine policy positions with campaigning or critical remarks about delegate candidates if union resources are used. Since the October, 1990 letter included campaign comments, was on official stationery and produced with Union resources, the Election Rules were violated.

To remedy this violation of the Election Rules the Election Officer orders the following

1 The Secretary-Treasurer shall cease and desist from using Local union stationery and funds for campaign activity on behalf of or in opposition to candidates for delegate, alternate delegate and International Officer of the IBT;

2 The members of the Members First slate for delegate and alternate delegate shall prepare a one page, 8 5" by 11" letter promoting their candidacy;

3 The Local Union shall, at its own expense, make as many copies of the Members First leaflet as there are members of the Local Union. The Local Union shall transmit to each recipient of the October 21, 1990 letter, including all stewards and committee persons, copies of the Members First leaflet with instructions to the stewards to post them in the work place,

4. The Local Union shall deliver the remaining copies of the leaflet to a representative of the Members First slate and the slate shall be free to distribute copies of the leaflet in accordance with the Election Rules,

5 If for any reason, the postings required by Paragraph 3 hereof are not made at any worksite(s), the Local Union shall, at its own expense, make additional copies of the leaflet and mail it to each member employed at the affected worksite(s)

6 Within fourteen days of the receipt of this decision, the Secretary-Treasurer of Local 579 shall execute and file an affidavit with the Election Office describing in detail the Local Union's compliance with this order

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If any interested party is not satisfied with this determination, they may request a hearing before the Independent Administrator within twenty-four (24) hours of their 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 Independent Administrator Frederick B Lacey at LeBoeuf, Lamb, Leiby & MacRae, One Gateway Center, Newark, New Jersey 07102-5311, Facsimile (201) 622-6693. Copies of the request for hearing must be served on the parties listed above, as well as upon the Election Officer, IBT, 25 Louisiana Avenue, N W, Washington, D C 20001, Facsimile (202) 624-8792. A copy of the protest must accompany the request for a hearing.

Very truly yours,



Michael H Holland
Election Officer

cc Frederick B Lacey, Independent Administrator, IBT
Barbara Zack Quindel, Regional Coordinator

IN RE: _____

 JOHN B WILSON,
 and
 IBT LOCAL UNION 579

:
 : 90 - Elec. App. - 17(SA)
 :
 : DECISION OF
 : THE INDEPENDENT
 : ADMINISTRATOR
 :

This matter arises out of an Appeal of a determination of a pre-election protest by the Election Officer (~~P-UJJ-LU579-NCE~~). The appellant, Local Union 579, requested that the hearing be held "on the papers." All parties agreed. I have reviewed the submissions of the parties, including the Election Officer Summary. As stated by the Election Officer in his Summary, "[n]one of the facts material to the resolution of this protest are in dispute."

1. John B. Wilson is a member of IBT Local Union 579 and is a candidate for delegate to the 1991 IBT International Convention running on the Members First slate. Mr. Wilson is employed by Janesville Auto Transport.

2. Jim Watson is also a member of the IBT Local Union 579 employed by Janesville Auto Transport. Mr. Watson is a supporter of the Members First slate.

3. In August, 1990 the Secretary-Treasurer of Local Union 579 [Brendan Kaiser] sent a letter to all members of Local Union 579 "calling their attention" to the fact that Wisconsin Vision & Hearing was the only vision care provider that was endorsed by the Local Union Executive Board and requesting the members of the union to consider patronizing that provider. Also attached to the letter was a schedule of prices for services provided by Wisconsin Vision & Hearing.

4. By letter dated August 21, 1990, a group of members of Local Union 579 informed Wisconsin Vision & Hearing that they would not patronize that provider because it was recommended by Brendan Kaiser. Among the individuals signing the letter were James A. Watson and John B. Wilson. While the group of employees

included members and supporters of the Members First slate, they are not identified as such, nor is there any reference to the slate in the letter.

5. By letter dated October 10, 1990, the Local Union responded to the August 21, 1990, letter to Wisconsin Vision & Hearing. The October 10, 1990, letter was written by Brendan Kaiser and is signed by the officers of the Local Union, including Mr. Kaiser, on behalf of the union. Among other pointed criticisms of the August 21, 1990 letter, the Local Union's letter states "[f]or a person who claims to be a "MEMBER'S FIRST" advocate, and signs something as stupid as the August 21, 1990 letter to Wisconsin Vision and Hearing, certainly displays his hypocrisy".

6. The Local Union's letter was mailed to 40 members employed by Janesville Auto Transport.

7. The Local Union's letter was also distributed to all Local Union 579 stewards and committeepersons; approximately 60 individuals.

8. The Local Union's letter was duplicated and distributed at Local Union expense.

At the heart of this appeal is Article X, Section 1(b)(3) of the Election Rules, which states that "[n]o Union funds or goods shall be used to promote the candidacy of any individual." The Election Officer has reasonably interpreted this provision to include the use of funds or goods to promote or oppose the candidacy of any individual or slate. As stated by the Election Officer:

Such interpretation is consistent with the underlying purpose of the Election Rules to insure that Local Union resources are not used for a campaign purpose unless such resources are available to all candidates and that the Union is reimbursed for such use.

Article V, Section 1(b)(3) also prohibits the use of the Union's official stationery with the Union name, insignia, or other mark identifying the Union irrespective of compensation or access, to promote the candidacy of any individual. The Election Officer, reasonably interprets this prohibition to include the use of official Union stationery to support or oppose an candidate or slate of candidates.

Local 579 violated Article X, Section 1(b)(3) by using Union stationery to criticize the "Members First" slate. In addition, Local 579 would be prohibited from using Union funds and goods to distribute such a statement, unless a similar opportunity was afforded to all other candidates and the Union was reimbursed That was not done in this case.

As part of the remedy in this case, the Election Officer directed the Local Union to duplicate and distribute a piece of "Members First" campaign literature, a copy of which is attached hereto. Local 579 agreed to distribute only the information which appeared on the right half of the campaign literature (that portion with the heading "Vote 'Members First' Slate"). Local 579 refused to distribute the left hand portion of the literature (that portion with the heading "Ron Carey's Teamsters Platform For Tomorrow"). Local 579's refusal to distribute the left hand portion of the literature is based on the fact that Mr. Carey is not a part of the "Members First" slate, and is not a member of Local 579.

Local 579 overlooks the following two relevant provisions of the Election Rules. First, Article XI, Section 2(h) authorizes the Election Officer to require "the Union to mail or otherwise distribute, at its own expense, candidate campaign materials" as a remedy for the violation of the Election Rules. Thus, the Election Officer clearly has the authority to order Local 579 to distribute the "Members First" literature.

Second, on the issue of redacting the literature, Article VIII, Section 6(g) provides that "[t]he Union may not censor, regulate, alter or inspect the contents of any candidates' campaign literature. The Union may not refuse to process or distribute any candidates' literature on the basis of its contents." Given this, the Local Union has no right to censor or regulate the content of the "Members First" campaign literature at issue.

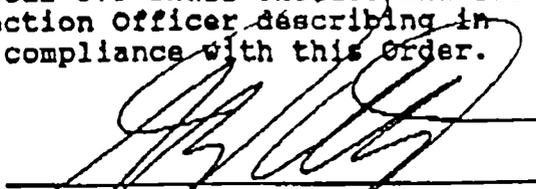
Moreover, it is worth noting that the "Members First" identification with the Carey Campaign and platform is proper, given the clear and important relationship between the selection of delegates and alternate delegates to the 1991 IBT International Convention and the Election of International Officers.

Thus, I affirm the Election Officer's determination, adopt his remedy and order compliance as follows:

1. The Secretary-Treasurer of Local 579 shall cease and desist from using Local Union stationery and funds for campaign activity on behalf of or in opposition to

candidates for delegate, alternate delegate or International Office of the IBT;

2. The Local Union shall, at its own expense, make as many copies of the "Members First" literature, attached hereto, as there are members in the Local Union;
3. The Local Union shall transmit to each recipient of the October 21, 1990 letter, including all stewards and committee persons, copies of the "Members First" literature with instructions to the stewards to post them in the work place;
4. The Local Union shall deliver the remaining copies of the leaflet to a representative of the "Members First" slate and the slate shall be free to distribute copies of the literature in accordance with the Election Rules;
5. If for any reason, the postings required herein are not made at any work site(s), the Local Union shall at its own expense make additional copies of leaflet and mail it to each member employed at the affected work site(s);
6. Within 14 days of the receipt of this decision, the Secretary-Treasurer of Local 579 shall execute and file an affidavit with the Election Officer describing in detail the Local Union's compliance with this Order.



Frederick B. Lacey
Independent Administrator
By: Stuart Alderoty, Designee

Dated: December 4, 1990.

Ron Carey's Teamsters 'Platform For Tomorrow'

As we move rapidly toward the 21st Century we face continuous technological economic and social changes

Teamsters rightly wonder what the future holds for them and their families. We wonder whether this union is ready to face the challenges ahead and to work hard to make a secure and prosperous future for all of us

Unfortunately, we know the top leaders of this union are not ready, willing and able to take us strongly into the future

Ron Carey is. This is his Platform for Tomorrow

- Corruption will not be tolerated. Whatever it occurs, it will be rooted out. Whoever perpetrates or tolerates it will be thrown out of this union. We will no longer apologize for being Teamsters
- Better pensions are a must! Trustees will work for the members
- Health care benefits will improve rather than decline. Health care providers will be held accountable and national health care insurance will be pursued
- No more concessionary contracts! We will bring on hard to win improved wages, benefits and working conditions. No more checks to employees getting out of our hard work!
- Grievance systems won't be used as a political tool for those dishonoring contracts
- All union officials — local and international — will be elected by the rank and file
- The union strike fund benefits will be increased to cover the basic needs of our members and their families if collective bargaining fails
- Outrageous multiple salaries for union officials will be abolished
- Political action activities which make sense — using our muscle to back only those politicians who support the interests of working people and unions — and opposing those who don't
- Canadian members will receive fair representation on the General Executive Board
- Loss of members will be halted by aggressive representation and organizing at all levels
- Building strong leadership for the future, Teamster educational centers will provide up-to-date training and resources for local officers, business agents and stewards

Elect Ron Carey Teamster President



VOLE "MEMBER FIRST" SLATE

DELEGATE

JOHN D. WILSON

ALTERNATE DELEGATE

MICHAEL MCCULLI

We as candidates for delegate positions to the June 1991 International Convention, being the 'Member First' State fully support Ron Carey's platform in it's entirety. Our reasoning for this is because what Mr. Carey wants for the Teamster Union is what we want for you the members of Local 579 for don't he desire also to put the 'Member First'

We will go to the convention to support ONLY repeat ONLY, any and all issues strictly relative to the members and very carefully scrutinize even the slightest suggestions which are unethical or favor only certain individuals which seem to be looking out their OWN PERSONAL GAINS and not those of the membership. We will not shy the least from the 'Member First' commitment!

The 'Member First' slate, although from the cultural division of Local 579 chose 'Member First' for the name of their slate because they want all 579 members to know that all other crafts of this union will be all equally represented by being your delegates, if elected, at the convention and it is our hope all members will come forward with their concerns so we can represent you to the fullest extent. We would attend this convention not for any PERSONAL GAINS whatsoever but strictly IN THE INTEREST OF YOU "THE MEMBERS FIRST".

We will WORK FOR NON-CONCESSIONARY CONTRACTS, BETTER GRIEVANCE LANGUAGE FOR STRONG ENFORCEMENT POLICIES FOR 'MEMBERS FIRST' and 'NO POLITICING' going on between management and union officials for their gain and NOT YOURS

WHO REALLY MADE THE TEAMSTERS GREAT???? THE 'STRONG ALLIANCE AND WORK OF THE MEMBERS BUT SAD TO SAY BY LITTLE THEY WERE PUT ON THE BACK BURNER. LET'S CHANGE ALL THIS!!!! 'MEMBERS FIRST' FOR ALL OF THE FUTURE NOT JUST FOR US BUT FOR GENERATIONS TO COME

VOLE! VOLE! VOLE! 'MEMBER FIRST' SLATE

For more information call (608) 752-6011