



OFFICE OF THE ELECTION OFFICER
% INTERNATIONAL BROTHERHOOD OF TEAMSTERS
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Michael H. Holland
Election Officer

November 1, 1991

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VIA UPS OVERNIGHT

John Bryan
109 Crocus
Lake Jackson, TX 77566

Richard A. Hammond
President
IBT Local Union 988
3100 Katy Freeway
Houston, TX 77270

Re: Election Office Case No. P-1009-LU988-SOU

Gentlemen:

A protest was filed pursuant to the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("*Rules*") by John Bryan, a member of Local Union 988. Mr. Bryan was an unsuccessful delegate candidate to the 1991 IBT International Union Convention from Local Union 988 who sought election committed to the election of Ron Carey as General President of the IBT and remains an active supporter of Mr. Carey's candidacy. Mr. Bryan is also apparently seeking election as an officer of his Local Union. In his protest, Mr. Bryan complains about the content of a leaflet disseminated by mail to the members of Local 988, as well as a single-page piece of literature found in his place of employment.

The single page of literature is a reproduction of a picture of three pigs eating at a trough of money. The Election Officer notes that it is a reproduction of the first page of the campaign material printed in the September 1991 of the International Teamster on behalf of the Ron Carey Slate. The mailed literature is a multi-page distribution. The material relates to the 1991 IBT International Union Convention, Mr. Bryan's candidacy for Local Union office and peripherally to the International Union officer election. The Election Officer assumes for the purpose of this decision that the material as a whole impacts upon the 1991 International Union officer election process over which he has jurisdiction.

The material is extremely negative with respect to both Teamsters for a Democratic Union ("TDU") and Mr. Bryan personally. The leaflet alleges that TDU lies, exaggerates, distorts facts and states half-truths. The contentions with respect to Mr. Bryan are largely of a personal nature. He is charged with having defrauded the Central States Health and Welfare Fund, altering his paid doctor bills and committing theft. Bryan is called a thief, and a cheap petty thief. Bryan submits that these statements are slanderous and intended to intimidate and discredit him.

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The question, however, before the Election Officer is whether the literature is violative of the *Rules*, not whether it contains false, scandalous or defamatory material. Underlying the *Rules* is a firm policy against censorship or the regulation of the content of campaign literature. Article VIII, § 6(g) of the *Rules* specifically states that "[t]he Union may not censor, regulate, alter or inspect the contents of any candidate's campaign literature. The Union may not refuse to process or distribute any candidate's literature on the basis of its contents." This policy reflects the right of union members to engage in vigorous internal union debate free from the threat of internal union discipline for their campaign statements. See e.g., Petramale v. Laborers Local 17, 736 F. 2d 13 (2nd Cir. 1984); Semanik v. UMW District 5, 80 LRRM 3475 (3rd Cir. 1972); Salzhandler v. Caputo, 316 F 2d 445 (2nd Cir. 1963). Similarly, the United States Supreme Court has recognized that internal union affairs ". . . are frequently characterized by bitter and extreme charges, countercharges, unfounded rumors, vituperations, personal accusations, misrepresentations and distortions." Old Dominion Branch No. 496 v. Austin, 418 U.S. 264, 272 (1974).

Thus, and assuming that the campaign statements contained in the leaflets were false or even defamatory, those facts do not remove such literature from the protection of the *Rules*. The model for free and fair Union elections is that of partisan political elections. In those elections, contestants are generally allowed to make whatever assertion, allegation, statement of opinion or even of alleged fact without legal sanctions for truth or falsity. The cardinal principle is that the best remedy for untrue speech is more speech with the electorate being the final arbiter. The *Rules* were not violated by the content of the leaflets.

The Election Officer investigation determined that no Union funds were utilized in the preparation, duplication or distribution of the campaign literature. Neither the funds of Local Union 988 nor the funds of any other IBT entity were spent. Accordingly, the protest is DENIED.

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,

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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

MHH/ca

cc: Frederick B. Lacey, Independent Administrator
Larry R. Daves, Regional Coordinator