

OFFICE OF THE ELECTION OFFICER
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Michael H. Holland
Election Officer

October 29, 1991

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VIA UPS OVERNIGHT

R. V. Durham Unity Team
508 Third Street, N.E.
Washington, D.C. 20003

Frank Carracino
c/o IBT Joint Council 73
2424 Morris Avenue
Union, NJ 07083

John P. Morris
c/o Committee to Elect John Morris
c/o IBT Local Union 115
2833 Cottman Avenue
Philadelphia, PA 19149

Walter Shea
c/o Robert Baptiste
Baptiste & Wilder
1919 Pennsylvania Avenue, N.W.
Suite 505
Washington, D.C. 20006

James C. Burns
President
IBT Local Union 429
1055 Spring Street
Wyomissing, PA 19610

Re: Election Office Case No. P-1013-LU429-PHL

Gentlemen:

A protest was filed pursuant to Article XI of the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("*Rules*") by John Steger on behalf of the R. V. Durham Unity Team. In his protest, Mr. Steger alleges that Local Union 429 violated the *Rules* by the content of its September 1991 newsletter. Mr. Steger alleges that the newsletter provides campaign support for candidates on the Shea-Ligurotis Action Team in violation of Article VIII, § 7 of the *Rules*.

The September, 1991 issue of "Teamster 429 Newsletter" is a twelve-page publication, each page approximately 11¼" x 16" in size. The first three pages of the newsletter consist of a photo montage of the June 1991 IBT International Union Convention. In total, 22 pictures, each 3½" x 5", are published. One of the most prominent pictures, printed on the top right-hand side of the first page of the newsletter, is a picture of campaign posters for Frank Carracino and John P. Morris, both nominated candidates for International Union Vice President on the Shea-Ligurotis Action Team slate. Immediately beneath that photograph is a photograph of General President candidate Walter Shea with Mr. Morris and another IBT member. Two of the photographs on the front page are of campaign signs; other than signs for Lou Riga, a candidate for General President who was not nominated at the Convention, one sign for R. V. Durham, and signs for International Trustee candidates (including those aligned with R. V. Durham), who were elected at the Convention, the signs pictured

are almost without exception those of the Shea-Ligurotis Action Team; the majority and most prominent signs pictured are those of that slate.

The pictures on the second and third pages of the newsletter also contain a number depicting campaigning at the 1991 IBT International Union Convention. Again, with the exception of Mr. Riga and International Union Trustee candidates, the only campaign signs depicted are those for the Shea-Ligurotis Action Team. None of the pictures in the entire montage include any campaign signs for General President candidate Ron Carey or his slate.

On page five of the newsletter, under the heading "Three Top Vote Getters in the East" are three photographs, approximately 2¼" x 2½" each, of the three nominated candidates for Vice President from the Eastern Conference then affiliated with the Shea-Ligurotis Action Team. There are captions under the pictures identifying the three candidates by name and IBT position.¹ Below the three pictures, the other nominated candidates for Vice President from the Eastern Conference are listed, but without photographs or any indication of their current IBT positions.

The September, 1991 issue of the newsletter also includes a 1½ page column entitled "The President's Corner" and subtitled "A Report of the Convention." The column is authored by Local 429 President Jim Burns. The column constitutes Mr. Burns' report to the membership on the 1991 IBT International Union Convention. Other than the listing of candidates nominated for International Union Vice President for the Eastern Conference, Vice President At-Large, General President and General Secretary-Treasurer, the only nominated International officer candidate mentioned in the column is Mr. Morris. Mr. Morris' Convention activities were highlighted, from his sagacity in ensuring that the Pennsylvania Conference of Teamsters presented a united front in dress, to his feistiness in preventing the hotel from enforcing its parking regulations, to the wisdom of his actions on the Convention floor. Mr. Morris' remarks in seconding a resolution at the Convention regarding strike benefits are quoted at length.

Article VIII, § 7 of the *Rules* prohibits a Union-financed publication or communication used to support the candidacy of any International Union officer candidate. As the Election Officer noted in his Advisory on Union Publications, issued December 21, 1990 ("Advisory"), featuring the activities of a particular candidate without publicizing the similar or identical activities of other candidates constitutes

¹ Subsequent to the publication of the September, 1991 issue of the newsletter, one of the candidates pictured, Joseph Treretola, withdraw as an International Union officer candidate. The candidate who replaced him on the Shea-Ligurotis Action Team slate is not pictured.

improper support. Pictures or articles reporting on the activities of a particular candidate or particular slate of candidates where the same or similar activities of other candidates or other slates of candidates are not reported is violative of Article VIII, § 7 of the *Rules*. See Advisory at pages 2-3.

Applying these standards to the September, 1991 issue of "Teamster 429 Newsletter" demonstrates that the *Rules* were violated. The newsletter contains numerous pictures of Mr. Morris; it also contains photographs of other candidates seeking election with Mr. Morris as part of the Shea-Liguoris Action Team. Other than Mr. Riga, the newsletter contains no photographs of any candidate not associated with the Shea-Liguoris Action Team. The photographed depictions of campaign signs at the 1991 IBT International Union Convention focus on signs of the Shea-Liguoris Action Team, with the names of Messrs. Shea and Liguoris being prominent. The only other prominent photographs of campaign signs are those for Mr. Riga, who was not nominated at the Convention, and the International Union Trustee candidates elected at the Convention. As noted above, there is no campaigning for Ron Carey or his slate, either pictured or described in the newsletter.

The only editorial reference in the newsletter to activities of any nominated International Union officer candidates are references to the activities of Mr. Morris. Similar activities of other candidates at the 1991 IBT International Union Convention are neither pictured nor described. The newsletter, taken as a whole, provides support to Mr. Morris and the Shea-Liguoris Action Team in violation of the *Rules*.

To remedy the violation, Local 429, at its option, shall undertake the actions described in either Paragraph 1 or Paragraph 2 below:

1. Publish and distribute on or before November 8, 1991 another edition of its newsletter, which newsletter shall include campaign material on behalf of the Ron Carey Slate and the R. V. Durham Unity Team. The campaign material to be published shall be one-half page for each slate and may include, at the option of the slate, pictures; however, the inclusion of pictures shall not increase the space available to either the R. V. Durham Unity Team or the Ron Carey Slate.

2. Alternatively, in lieu of publishing and distributing another edition of its newsletter, Local 429 shall duplicate and mail to all its members campaign literature on behalf of both the R. V. Durham Unity Team and the Ron Carey Slate. The literature shall be no greater than one page, 8½" x 11", may be printed on both sides and include photographs and shall be suitable for mailing in a tri-fold format. The material shall be prepared by the two slates. It shall be duplicated and mailed by Local 429 to all its members on or before November 8, 1991.

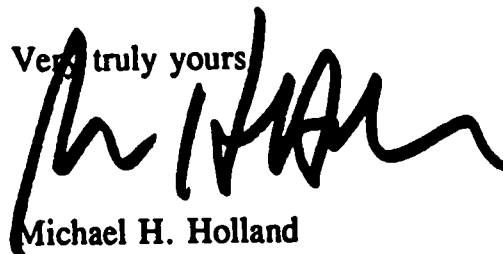
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By the close of business on the date following the date of this decision, Local 429 shall notify by facsimile transmission the Ron Carey Slate, facsimile number 212-695-5436, the R. V. Durham Unity Team, facsimile number 202-547-1990, and the Election Officer, facsimile number 202-624-8792, whether it will publish and distribute another edition of its newsletter or mail to its members campaign literature on behalf of the Ron Carey Slate and the R. V. Durham Unity Team. Depending upon the option chosen by Local 429, the R. V. Durham Unity Team slate and the Ron Carey Slate shall provide to Local 429, in camera-ready form, on or before the close of business on November 4, 1991, the material to be included in the new edition of the newsletter or the material to be mailed by Local 429 in tri-fold format. The material so furnished shall be furnished simultaneously by the Ron Carey Slate and the R. V. Durham Unity Team to the Election Officer. Within three days after completing the distribution of either its newsletter or the campaign material, Local 429 shall file an affidavit with the Election Officer demonstrating its compliance with this decision.

The protest is GRANTED as set forth above. The remedy ordered by the Election Officer in this case shall not be stayed by an appeal of this decision to the Independent Administrator. See *Rules*, Article XI, § 2(z).

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

MHH/ca

cc: Frederick B. Lacey, Independent Administrator

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Peter V. Marks, Sr., Regional Coordinator

**Ron Carey
c/o Richard Gilberg, Esquire
Cohen, Weiss & Simon
330 West 42nd Street
New York, NY 10036-6901**