

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 4, 1991

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

**VIA UPS OVERNIGHT**

James T. Grady  
General Counsel  
International Brotherhood of Teamsters  
25 Louisiana Ave., NW  
Washington, D.C. 20001

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

**Re: Election Office Case No. P-1027-IBT**

Gentlemen:

A protest was filed pursuant to Article XI, § 1 of the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("*Rules*") by James T. Grady, General Counsel of the IBT. In the protest, Mr. Grady objects to the use of the IBT name and address on campaign mailings mailed on behalf of the Ron Carey Slate through use of the IBT's bulk rate, non-profit status, mail permit. Mr. Grady alleges that the use of the IBT's name and address as the return address on the envelope falsely suggests that IBT is the sender and that it causes IBT additional administrative work in receiving the undelivered letters.

Article VIII, § 6 of the *Rules* governs the publication and distribution of candidate literature. This *Rule* provides that each candidate is permitted to have his/her campaign literature mailed by the IBT at the candidate's expense. Article VIII, § 6(a)(3) of the *Rules* further provides:

The Union shall honor requests for distribution of literature by any lawful class or type of mail or postage, including, to the extent permitted by postal regulations, utilization of any non-profit organization bulk-rate permit of the International or Local Union or any other subordinate body of the Union utilized by the Local Union. All literature distributed through use of the non-profit organization bulk-rate permit shall clearly state that it is campaign literature, the contents of which are not endorsed by the Union.

In re IBT, 91-Misc. Elec. Dec.-1, IBT appealed to the Independent Administrator from a March 4, 1991 letter from the Election Officer that the IBT allow Ron Carey--then a declared but not nominated candidate for IBT General President--and other

James T. Grady  
November 4, 1991  
Page 2

International Union officer candidates to utilize the IBT's non-profit organization bulk-rate mailing permit in the distribution of campaign literature. The contention advanced by IBT in support of the appeal was that existing postal regulations do not permit the utilization of the IBT's non-profit bulk rate mailing permit by factions within the Union for political campaigning. The Independent Administrator rejected this contention as erroneous and directed the IBT to make its non-profit bulk rate postage permit available to candidates for International office.

Postal regulations require that all mail distributed using a non-profit permit contain, as a return address, the name and address of the permit holder, here the IBT. Thus, any literature mailed with the IBT's non-profit status must contain the IBT's name and address. Although not directly raised in 91 Elec. Misc. Dec.-1, the Independent Administrator in his decision notes that utilization of the non-profit status will result in the use of the IBT's name and address on such mailing:

In discussing the specific provisions of the Election Rules, the Election Officer emphasizes that the Rules "were drawn in accord with the postal regulations concerning utilization of not-for-profit bulk-rate permits." This is why the Election Rules "contemplate that the name and return address on all such mailings will be in the name and return address of the organization holding the permit, in this case, the International Union." In addition, the Election Rules "require that the campaign literature so mailed contain a disclaimer indicating that the material is not endorsed by the Union. See Election Rules, Article VIII, Section 6.a (Opinion at page 4).

Subsequent to that decision, at least two of the competing slates of International Union officer candidates (the Ron Carey Slate and the R. V. Durham Unity Team slate) have utilized the IBT's bulk rate, non-profit status mail permit to mail campaign literature to IBT members. As required by postal regulations, the envelopes utilized for all such mailings have contained the IBT's name and address. Further, as required by Article VIII, § 6(a)(3) of the *Rules*, all the envelopes in which the campaign literature has been mailed have contained, directly below the IBT's name and address, the statement "Campaign literature, the contents of which are not endorsed by the IBT."

The Election Officer's investigation of this protest determined that undeliverable mail has been returned to the IBT by the Post Office with respect to all mailings performed by the two slates utilizing the IBT's bulk rate, non-profit mail permit. Although the protest here concerns only the mailings done on behalf of the Ron Carey Slate, the Election Officer investigation has revealed that the same alleged administrative

James T. Grady  
November 4, 1991  
Page 3

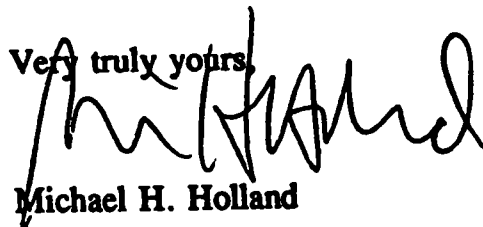
burden has been placed upon the IBT by reason of the R. V. Durham mailings performed by R. V. Durham slate as well.

The IBT is required by the *Rules* to permit candidates for IBT International Union office to utilize its non-profit bulk rate mail permit for campaign mailings. That obligation has been affirmed by the Independent Administrator. In re IBT, 91 Elec. App. Dec. - 1. Postal regulations require that the IBT's name and address be on all such mailings. The disclaimer quoted above, appearing directly under the IBT's name and address plainly dispels any notion that the campaign literature is in any way attributable to or approved by the IBT. The administrative burden, while perhaps unfortunate, is required by the *Rules* and the Independent Administrator's decision. The burden arises inescapably from the Postal Office regulations. The burden has been undertaken by the IBT on behalf of all candidates and slates of candidates who have elected to utilize the IBT's non-profit organizational bulk rate permit and is not, based upon the Election Officer's investigation of this protest, much greater than de minimus.

In accordance with the foregoing and based upon the prior decision of the Independent Administrator, 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, 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/mjv

cc: Frederick B. Lacey, Independent Administrator

James T. Grady  
November 4, 1991  
Page 4

R. V. Durham  
c/o Hugh J. Beins, Esquire  
Beins, Axelrod, Osborne  
& Mooney  
2033 K St., NW  
Suite 300  
Washington, D.C. 20006-1002

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