

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

November 13, 1991

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

**VIA UPS OVERNIGHT**

Daniel Torres, Jr.  
2484-E Sundial Drive  
Chino Hills, CA 91709

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

Everett J. Roberts  
Trustee  
IBT Local Union 63  
1616 West 9th Street  
Room 205  
Los Angeles, CA 90015

**Re: Election Office Case No. P-1054-LU63-CLA**

Gentlemen:

A protest was filed pursuant to the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("*Rules*") by Daniel Torres, Jr., a member and former business agent of Local Union 63. Mr. Torres contends that Everett J. Roberts, the present Trustee of Local Union 63, utilized Local Union funds and resources to distribute campaign literature on behalf of the R. V. Durham Unity Team. The protest was investigated by Regional Coordinator Geraldine Leshin.

Article VIII, § 6(a)(3) permits International Union officer candidates, or slates of candidates, to utilize the International Union's bulk-rate non-profit organization mail permit to distribute campaign literature. All mail sent through use of an organization's non-profit bulk-rate mail permit must contain as the return address the name and address of the permit holder. All campaign material mailed by candidates seeking International Union office in the 1991 IBT International Union officer election via the IBT's bulk-rate non-profit organization mail permit contains the name and address of the IBT. Such literature also contains, pursuant to Article VIII, § 6(a)(3) on the *Rules*, a disclaimer stating that the material's campaign literature, the content of which are not endorsed by the Union.

All International Union officer candidates were provided by the Election Officer with the names and addresses of all IBT members among whom each such candidate was seeking election. Candidates for General President, General Secretary-Treasurer and

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Vice President At-Large were provided with the names and addresses of all IBT members; candidates for Regional Vice President were provided with the names and addresses of all IBT members in the conference in which each such candidate was seeking election. See *Rules*, Article VIII, § 2(a).

The list was provided by the Election Officer to the candidates in or about the beginning of August 1991. The names and addresses of IBT members provided by the Election Officer to the nominated candidates was obtained by the Election Officer--with respect to Local Unions maintaining their membership records on the IBT TITAN system--from the TITAN membership information.

Prior to August 30, 1991, Mr. Torres' address, as maintained on the TITAN system, was other than his home address. Prior to that time, Mr. Torres' address and the addresses of other former Local 63 business agents and representatives, as maintained in the TITAN system, was the address for Local Union 63. On August 30, 1991, an address change for Mr. Torres and other former business agents of Local 63 was recorded, changing Mr. Torres' and the other members' addresses from the Local Union address to their personal home addresses.

The material mailed to Mr. Torres and other former business agents and representatives of Local Union 63 was mailed by the R. V. Durham Unity Team utilizing the IBT's bulk-rate non-profit organization mail permit in accordance with Article VIII, § 6(a)(3) of the *Rules* and with the membership address information provided the R. V. Durham Unity Team by the Election Officer pursuant to Article VIII, § 2(a) of the *Rules*. Since the membership list provided by the Election Officer to the R. V. Durham Unity Team contained for Mr. Torres and other former business agents and representatives of Local 63 the Local's address, the campaign literature mailed by the R. V. Durham Unity Team was mailed to them at Local 63.

When the Local received the mail for Mr. Torres and the other former business agents and representatives, the Local forwarded the mail to them at their home addresses. Forwarding mail addressed to a former employee, and using Local Union resources to forward such mail, does not constitute a violation of the *Rules*, even if the mail so forwarded is campaign literature. For these reasons, the instant 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

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& 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

Geraldine L. Leshin, Regional Coordinator

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

Walter Shea  
c/o Robert Baptiste, Esquire  
Baptiste & Wilder  
1919 Pennsylvania Avenue, NW  
Suite 505  
Washington, DC 20006

IN RE:

DANIEL TORRES, JR.

and

EVERETT J. ROBERTS, Trustee  
IBT LOCAL UNION NO. 63

91 - Elec. App. - 233 (SA)

DECISION OF THE  
INDEPENDENT ADMINISTRATOR

This matter arises as an appeal from the Election Officer's decision in Case No. P-1054-LU63-CLA. A hearing was held before me by way of teleconference at which the following persons were heard: Daniel Torres, Jr., the Complainant; Geraldine Leshin, a Regional Coordinator; and John J. Sullivan, for the Election Officer. The Election Officer submitted a written Summary in accordance with Article XI, Section 1.a.(7) of the Rules for The IBT International Union Delegate and Officer Election (the "Election Rules").

The Complainant, Mr. Torres, is a member of IBT Local 63 and a former Business Agent for that Local. Mr. Torres alleges that Everett J. Roberts, the Temporary Trustee for Local 63, improperly expended Local Union funds and resources to campaign for R.V. Durham, a candidate for IBT General President. Specifically, Mr. Torres alleges that Mr. Roberts allowed the Local's office staff to forward Durham campaign material, which had been sent to Mr. Torres "care of" the Local, to Mr. Torres at his home address.

As stated in paragraph 4 of the Election Officer's Summary:

The R.V. Durham Unity Team of candidates for International Union officer positions mailed campaign material to Mr. Torres and other former employees of Local Union 63 by means of the IBT's bulk-rate mailing permit and the address provided to the slate by the Election Officer pursuant to the Election Rules. The literature for Mr. Torres was thus received at the Local Union office.<sup>1</sup>

The Election Officer also found, as alleged by Mr. Torres, that upon receipt of the Durham mail addressed to Mr. Torres, the Local forwarded the mail to his home address. The Local also did the same for other former Local Business Agents.<sup>2</sup> To do this, office personnel simply enclosed the original mail in another envelope and addressed it to the proper home address.

Mr. Torres suggests that this is a violation of Article X, Section 1.b.(1) and (3) of the Election Rules which prohibit Local Unions from using any of its equipment, facilities or personnel to promote the candidacy of International officer candidates.

While there is some dispute as to why the Durham campaign sent Mr. Torres material "care of" the Local Union, it is not disputed that all the Local Union did was forward the materials, once received at the Local Union hall, to Mr. Torres at his home address.<sup>3</sup>

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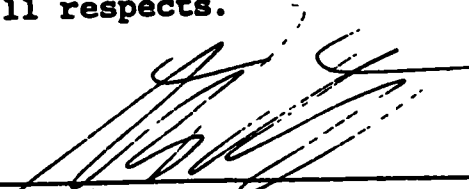
<sup>1</sup> Article VIII, Section 6.a.(3) of the Election Rules permits International Union officer candidates to use the IBT's bulk-rate mail permit to distribute campaign literature to IBT members.

<sup>2</sup> Although the envelopes received at the Local reflected that the contents were campaign material, they did not specify the candidate who had sent the materials. The only return address was that of the IBT in Washington, D.C.

<sup>3</sup> The Election Officer suggests that the Durham campaign used the mailing address for Mr. Torres which had been supplied by the  
(continued...)

Given what is involved here, there is no violation of the Election Rules. The services rendered by the Local were routine and de minimis. Mr. Torres himself acknowledged that after his discharge as a Business Agent the Local had, on at least two other occasions, forwarded mail to him at his home address. The service rendered by the Local was undertaken as a courtesy to Mr. Torres and not to promote the candidacy of Mr. Durham.

Accordingly, the decision of the Election Officer dismissing Mr. Torres's protest is affirmed in all respects.



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

Dated: November 25, 1991

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<sup>3</sup>(...continued)

Election Officer from information stored on the IBT's TITAN system. Mr. Torres suggests that the Durham campaign used the address found in the Joint Council 42 roster. At the hearing, it was also suggested that perhaps Mr. Durham used the address found in the Local's LM-2 filings.