

***PRE-ELECTION
PROTEST
DECISIONS***

ELECTION OFFICE CASE NOS.

P-1071-LU677-ENG to P-1100-LU174/313-PNW

VOLUME XXVI

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November 15, 1991

VIA UPS OVERNIGHT

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**Re: Election Office Case Nos. P-1071-LU677-ENG
P-1072-LU24-CLE**

Gentlemen:

Protests were filed pursuant to Article XI of the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("Rules") by Gene Moriarty, a member of Local Union 677 and Charles Donahue, a member of Local Union 24. The protests allege that the Executive Boards of their respective Locals have improperly endorsed the R. V. Durham Unity Team and publicized made that endorsement by a mailing to the membership of each Local. Mr. Moriarty also alleges that this conduct by the Local 677 Executive Board constitutes a refusal by Local 677 to comply with the determination of the Election Officer in Election Office Case No. P-963-LU677-ENG, affirmed as modified 91-Elec. App.-212(SA).

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The material submitted by Gene Moriarty reveals that a letter dated October 21, 1991, on the letterhead of the "R. V. Durham Volunteer Committee of Local 677" was sent to Local 677 members. The letter states in relevant part:

. . . [m]embers of Teamsters Local No. 677's Executive Board, and the delegates and alternate delegates to the convention, have unanimously endorsed the R. V. Durham Unity Team . . .

The letter further states that the members of the Executive Board encourage the members of Local 677 to vote and urge that they vote for the R. V. Durham Unity Team. The letter is signed by Perley Rossignol, Secretary-Treasurer; the names of six other members of the Local's Executive Board with their respective titles are typed beneath his signature. Durham Unity Team campaign literature was enclosed with the letter.

The material submitted by Mr. Donahue with his protest reveals that a similar letter was sent to Local 24 members. That letter, which is undated, is signed by all members of the Executive Board of Local 24 with their titles noted and states in relevant part:

. . . [t]hat the members of Teamsters Local No. 24 Executive Board have unanimously endorsed the R. V. Durham Unity Team . . .

This letter also encourages Local 24 members to vote and urges that they vote for the R. V. Durham Unity Team.¹

The issue presented by these protests is whether the individual members of a Local Union Executive Board, as opposed to an Executive Board as an entity may endorse a candidate for International office without violating the *Rules*. For the reasons set forth below, the Election Officer determines that the members of an Executive Board may do so and that the letters sent to the Local 24 and 677 membership constitute such individual membership endorsement.

As the Election Officer determined in Election Office Case No. P-963-LU677-ENG, affirmed 91-Elec. App.-212, an Executive Board of a Local Union, as an entity, may not endorse any candidate for International office. To do so violates Article X,

¹ There is no evidence nor any allegation that either mailing was made through use of Union funds or resources.

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§§ 1(b)(1) and 1(b)(3) of the *Rules* prohibiting the use of Union funds or goods to promote the candidacy of any individual. An endorsement is a contribution since it is a thing of value. Thus, to the extent that an Executive Board, as an entity of the Local and acting in its capacity as a governing body of the Local, makes such an endorsement, Article X, §§ 1(b)(1) and 1(b)(3) of the *Rules* is violated. See Election Office Case No. P-963-LU677-ENG, affirmed as modified 91-Elec. App.-212 (S.A.).

However, the *Rules* specifically provide that all Union members, including Union officers and employees, have the right to participate in campaign activities, including the right to openly support any candidate, to aid or campaign for any candidate and to make personal campaign contributions. *Rules*, Article VIII, § 10(b). Accordingly, members of an Executive Board as IBT members have the right to support and endorse candidate(s) for International Union office and the right to publicize such endorsement, provided no Union funds are utilized. Further, any IBT member, including Local officers may identify his or her position of employment while engaging in campaign activity, including when making or publicizing an endorsement. See Advisory on Campaign Contributions and Disclosure issued August 14, 1991, ("Advisory"), page 5. Thus, the *Rules* do not prohibit the members of an Executive Board from identifying themselves as such when making or publicizing an endorsement of International Union officer candidates; as long as the endorsement is not made as an official endorsement of the Executive Board as an entity, but as individual endorsements by the members of the Executive Board, the *Rules* are not violated.

A fair reading of the letter distributed by the members of the Executive Boards of Local 24 and 677 demonstrates that the letters do not demonstrate that the Executive Boards of these Locals, as Union entities, have endorsed a candidate or slate of candidates for International Union office. A fair reading of these letters demonstrates that the individual members of the Executive Board who make the endorsements as individual members of the IBT, albeit as members who are also officers of IBT subordinate bodies. Thus, the endorsements and the publication of the endorsements do not violate the *Rules*.

For the same reasons, the members of the Local 677 Executive Board, by individually endorsing a candidate, have not failed to comply with the decision of the Election Officer as modified by the Independent Administrator. The decision of the Election Officer as modified by the Independent Administrator remains in full force and effect and the Local, by its Secretary-Treasurer, Perley Rossignol, has expressed its intent to comply with that decision at the November 17, 1991 Local Union meeting.

The protests are DENIED.

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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

MHH/ca

cc: Frederick B. Lacey, Independent Administrator

Joyce Goldstein, Regional Coordinator

Elizabeth A. Rodgers, Regional Coordinator

Ron Carey
c/o Richard Gilberg, Esquire
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