

OFFICE OF THE ELECTION OFFICER
% INTERNATIONAL BROTHERHOOD OF TEAMSTERS
25 Louisiana Avenue, NW
Washington, DC 20001

Michael H. Holland
Election Officer

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November 25, 1991

VIA UPS OVERNIGHT

Daniel George
418 Possum Court
Capitol Heights, MD 20743

Fred A. Valentine
6004 Brooke Jane Dr.
Clinton, MD 20735

Philip Feaster
President
IBT Local Union 639
3100 Ames Place, N.E.
Washington, D.C. 20018

Re: Election Office Case No. P-1103-LU639-MID

Gentlemen:

Several protest were filed pursuant to Article XI of the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("*Rules*"). Each of the protests concern mailings to members of Local Union 639 by the "Committee to Elect Phil Feaster and the R.V. Durham Unity Team" ("Feaster Campaign") and have been consolidated under the above referenced case number. Mr. Fred Valentine's protests concern literature dated November 1, and 4, 1991. Mr. Daniel George's protest concerns literature dated September 9, 1991.¹ Both Valentine and George allege that the mailings were violative of the *Rules* because they involved the improper use of the Local Union's name and resources. The Election Officer's investigation revealed the following.

Phil Feaster is President of Local Union 639 and is also a nominated candidate for International Vice President running as part of the "R. V. Durham Unity Team". On or about September 9, November 1, and November 4, 1991, the Feaster Campaign sent letters to the membership of Local Union 639 soliciting support for Mr. Feaster's candidacy, and for the other members of the Durham Unity Team, and inviting members

¹ As a preliminary matter the Local Union contends that since Mr. George is no longer a member of the IBT, his protest should be dismissed. Because a virtually identical protest was filed by Mr. Valentine, a member of Local Union 639, a dismissal of Mr. George's protest would not have resolved this matter. Accordingly, it was unnecessary to determine whether Mr. George's alleged present status required the dismissal of his protest and the Election Officer therefore proceeded to consider the merits of the protests. See also *Rules*, Article 1, §2.

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to a fundraising event to be held on December 4, 1991 at the Local Union hall. The letter dated November 1, 1991 states, *inter alia*, that "[t]he members of Teamsters Local 639's Executive Board have unanimously endorsed the R. V. Durham Unity Team. . ." This letter also encourages Local 639 members to vote and urges that they vote for the R. V. Durham Unity Team.

Each of the letters was sent using the Local Union's non-profit bulk-rate permit. Pursuant to postal regulations the name and address of the Local Union, the permit holder, must appear as the return address. Pursuant to Article VIII, § 6(a)(3) of the *Rules*, the mailings contained a disclaimer on the face of the envelope stating "Campaign Literature-Contents Not Endorsed By The Union." All postage for the mailing, the printing costs of the mailing, and the use of the Local Union hall for the fundraising event have been paid by or directly billed to the Feaster Campaign.²

The principal issue presented by this protest 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 November 1, 1991 letter sent to the Local Union 639 membership constitutes such individual membership endorsements.

As the Election Officer determined in Election Office Case No. P-963-LU677-ENG, affirmed as modified, 91-Elec. App.-212 (S.A.), 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(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 intended to influence the outcome of the election. Thus, to the extent that an Executive Board, as an entity of the Local Union and acting in its capacity as the governing body of that Union, 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 all 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

² The Local Union has complied with its obligation under Article VIII, § 10(c) of the *Rules* to inform other candidates of the availability of the hall for rental on the same terms as provided to the Feaster Campaign.

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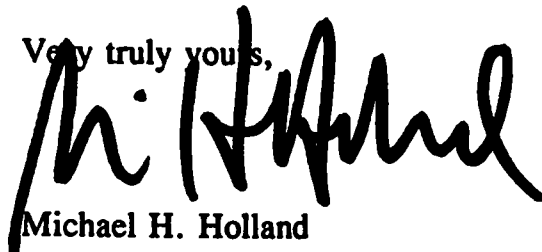
provided no Union funds are utilized. Further, any IBT member, including Local Union officers, may identify his or her position of employment or office while engaging in campaign activity, including when making or publicizing an endorsement. See Advisory on Campaign Contributions and Disclosure, issued 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* have not been violated.

A fair reading of the November 1, 1991 letter mailed to the Local Union 639 membership demonstrates that the letter is not an endorsement by the Local Union Executive Board as an entity. Rather, a fair reading of the letter demonstrates that the individual members of the Executive Board have made the endorsements as individual members of the IBT, albeit as members who are also officers of an IBT subordinate body. Thus, the endorsements and the publication of the endorsements do not violate the *Rules*.

For these reasons the instant protests are 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,

A handwritten signature in black ink, appearing to read "Michael H. Holland". The signature is written in a cursive, somewhat stylized script.

Michael H. Holland

cc: Frederick B. Lacey, Independent Administrator

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Grant Crandall, Regional Coordinator

Ron Carey
c/o Richard Gilberg, Esquire

R. V. Durham
c/o Hugh J. Beins, Esquire

Walter Shea
c/o Robert Baptiste, Esquire