



OFFICE OF THE ELECTION OFFICER
% INTERNATIONAL BROTHERHOOD OF TEAMSTERS
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November 22, 1991

VIA FACSIMILE AND UPS OVERNIGHT

Dave Kapitula
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Shavertown, PA 18708

Joseph Gorham
Secretary-Treasurer
IBT Local Union 401
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(FAX: 717-823-5131)

Vicki Saporta
3021 Oregon Knolls Drive, N.W.
Washington, D.C. 20015
(Facsimile c/o Robert Baptiste
FAX: 202-223-9677)

Re: Election Office Case No. P-1104-LU401-PHL

Gentlemen and Ms. Saporta:

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 Dave Kapitula, a Union steward for Local Union 401, located in Wilkes-Barre, Pennsylvania, against Local Union 401 alleging that improper access was accorded to Vicki Saporta, a candidate for Vice President At-Large running on the Shea-Liguoris Action Team slate, to address a meeting of stewards of Local Union 401 held on Saturday, November 16, 1991. This protest was investigated by Adjunct Regional Coordinator Julius Uhlein.

The underlying facts are undisputed. For the first time in approximately 25 years, Local Union 401 held a meeting of its stewards on Saturday, November 16, 1991, at the Union office in Wilkes-Barre. The meeting lasted approximately six hours, from 9:00 a.m. to 3:00 p.m. The meeting was well attended with approximately 50 stewards and other Union officials present. Lunch was provided by Local Union 401 in the same basement room in which the rest of the meeting was held. During the lunch break, Ms. Saporta spoke to the group for approximately 20 minutes. She gave a campaign speech and she was introduced by Local Union 401 President Joseph Gorham.

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Local Union 401 President Joseph Gorham states that Ms. Saporta called him about a week before the stewards meeting and asked him whether she could address the meeting. He said that he told her she could if it did not violate the *Rules*. He says that he has known Ms. Saporta for 15 years and has great respect for her ability as an organizer. He seconded Ms. Saporta's nomination at the IBT Convention in Orlando.¹

Mr. Kapitula states that after Ms. Saporta spoke, he asked for equal time to speak on behalf of the Ron Carey Slate and that no one responded to this request. Mr. Gorham states that he did not hear Mr. Kapitula's request and would have granted Mr. Kapitula equal time had he heard the request. Other persons in attendance corroborate Mr. Kapitula's recollection. One of them, Mr. Barry McGee, recalls that Mr. Kapitula was seated close to the front and that Mr. Gorham must have heard him since he (McGee) heard the comment and he was much farther back in the room. It is not necessary, however, to resolve this disputed factual issue in order to decide this protest.

Article VIII, § 4 of the *Rules* provides that all candidates and campaigns must be treated equally with respect to attendance at Local Union meetings and the rights to engage in campaign activities at Local Union meetings. A stewards meeting is clearly a Local Union meeting. If a candidate who is not a member of the Local Union is permitted to attend a Local Union meeting, the same opportunity must be provided to all other candidates. Campaigning is permitted at Local Union meetings, but if and only if the opportunity to make use of such resource is "made equally available on the same basis to all candidates and all candidates are notified in advance of the availability" of such resource. *Rules*, Article VIII, § 10(c).

The evidence in this case clearly shows that the *Rules* have been violated. A candidate for International office, not a member of Local 401, was permitted to deliver a 20-minute campaign speech. The severity of the violation is underscored by the fact that this was the first stewards meeting to be held in years and it occurred on November 16th, a critical date in the IBT election, just at the time when the ballots were being mailed to members. The fact that Ms. Saporta's campaign speech occurred during the lunch break rather than during the rest of meeting does not lessen the severity of the violation, since the lunch, paid for by Local 401 and served in the same location as the rest of the meeting, was clearly an integral part of the meeting. See, e.g., Election Office Case No. P-906-LU743-CHI, affirmed 91-Elec. App.-203; see also Election Office Case No. P-735-IBT, affirmed as modified 91-Elec. App.-173.

¹ The question of whether Mr. Gorham and other officials of Local Union 401 have endorsed other members of the Shea-Ligurotis Action Team slate is disputed.

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No other candidate or representative of any other slate was given the same opportunity to campaign. Other candidates were not notified that they could campaign at the stewards meeting.

Accordingly, the protest is GRANTED. To remedy this violation of the *Rules* and to provide the competing candidates with a comparable opportunity to campaign among the stewards of Local Union 401, Local 401 is ordered to mail to all of its stewards campaign literature provided to it by the Ron Carey Slate and the R. V. Durham Unity Team slate. The literature shall be no greater than two pages, printed on four sides, 8½ inches by 11 inches, suitable for mailing as a self-mailer, i.e., a bi-fold or tri-fold. The literature shall be provided to Local 401 by the Ron Carey Slate and the R. V. Durham Unity Team Slate in camera-ready form. Each mailing shall be sent &separately by first class mail within two business days after receipt. The cost of duplication and mailing shall be borne by Local Union 401. The Ron Carey Slate and the R. V. Durham Unity Team slate shall provide the Election Officer with a copy of the campaign literature at the same time that a copy is provided to Local Union 401.

In addition, Local 401 is directed to post the literature provided to it by both slates on all Local Union bulletin boards at the Local Union offices and at all work sites employing Local 401 members. The material shall be posted as directed within two business days of the receipt by the Local of each slate's campaign material. The copies of the literature to be posted shall be duplicated so that all four sides of each slate's literature will be seen.

Within three (3) business days after completing the mailings and postings required by this decision, Local 401 shall submit an affidavit to the Election Officer verifying that the mailings and posting have been completed. Due to the imminence of the IBT International Union officer election schedule, an appeal of the Election Officer's decision will not stay this remedy. *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

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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 / JJS

Michael H. Holland

MHH/mjv

cc: Frederick B. Lacey, Independent Administrator

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