

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 FACSIMILE AND UPS OVERNIGHT**

Larry Brennan  
5252 Norton Road  
Howell, MI 48844

Ken DeVries  
Secretary-Treasurer  
IBT Local Union 406  
3315 Eastern Ave, S.E.  
Grand Rapids, MI 49508  
(FAX: 616-452-6364)

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

**Re: Election Office Case No. P-1112-LU406-MGN**

Gentlemen and Ms. Saporta:

A protest was filed with the Election Office pursuant to Article XI of the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("*Rules*"). In that protest, Mr. Larry Brennan, a nominated candidate for International Vice President running as part of the R.V. Durham Unity Team, alleges that Local Union 406 violated the *Rules* when it permitted Vicki Saporta, a nominated candidate for International Vice President running as part of the Shea-Ligurotis Action Team, to speak at a Local Union 406 membership meeting. The Election Officer's investigation of this protest revealed the following.

A membership meeting of Local Union 406 was held on Wednesday evening, November 20, 1991. Vicki Saporta was present at the meeting and was permitted to make a campaign presentation in support of her candidacy, and the candidacies of her fellow members on the Shea-Ligurotis Action Team, candidates for International office in the IBT. No other candidate(s) or slate(s) of candidates was given notice of the opportunity to address the membership of Local Union 406 and no other candidate or the representative of any candidate or slate of candidates addressed the meeting.

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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 right to engage in campaign activities at Local Union meetings. 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 afforded 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).

In the instant case no other candidate or representative of any other candidate or slate was given the same opportunity to campaign at the Local Union 406 membership meeting afforded to Ms. Saporta. Other candidates and their representatives were not notified that they could campaign at the membership meeting; no campaign activities on behalf of any other candidate or slate of candidates occurred at the Local's membership meeting. In light of the foregoing, the Election Officer concludes that the *Rules* have been violated and hereby orders the following the following relief to remedy this violation.

To remedy this violation of the *Rules*, and to provide the competing candidates with a comparable opportunity to campaign among the membership of Local Union 406, Local Union 406 is ordered to mail to all of its members campaign literature provided to it by the Ron Carey Slate and the R.V. Durham Unity Team. The literature shall be no greater than two pages, printed on four sides, 8.5 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 Union 406 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 the duplication and mailing shall be born by Local Union 406. 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 406.

Within three (3) business days after completing the two mailings required by this decision, Local Union 406 shall submit an affidavit to the Election Officer verifying that the mailings have been completed. No appeal of this determination shall stay the effectiveness of this order. *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 be served on Independent Administrator Frederick B. Lacey at LeBoeuf, Lamb, Leiby & MacRae, One Gateway Center, Newark, New Jersey 07102-5311, Facsimile (201)

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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 DeHaan, Regional Coordinator

Ron Carey  
c/o Richard Gilberg, Esquire  
Cohen, Weiss & Simon  
330 West 42nd Street  
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(FAX: 212-695-5436)

Eddie Burke  
26 Bradford Street  
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R. V. Durham  
c/o Hugh J. Beins, Esquire  
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& Mooney  
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**Chris Scott**  
**R. V. Durham Unity Team**  
**508 Third Street, N.E.**  
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**Walter Shea**  
**c/o Robert Baptiste, Esquire**  
**Baptiste & Wilder**  
**1919 Pennsylvania Avenue, N.W.**  
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**(FAX: 202-223-0677)**

**Shea-Liguoris Action Team**  
**c/o James Smith**  
**c/o IBT Local Union 115**  
**2833 Cottman Avenue**  
**Philadelphia, PA 19149**  
**(FAX: 215-333-4146)**

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 IN RE:

LARRY BRENNAN

and

IBT LOCAL UNION NO. 406

91 - Elec. App. - 240 (SA)

 DECISION OF THE  
 INDEPENDENT ADMINISTRATOR

This matter arises as an appeal from the Election Officer's decision in Case No. P-1112-LU406-MGM. A hearing was held before me by way of teleconference at which the following persons were heard: John J. Sullivan for the Election Officer; James DeHaan, a Regional Coordinator; Hugh Beins for Larry Brennan, the Complainant; Ken DeVries the Secretary-Treasurer of Local Union 406; Mike Fayette for Mr. DeVries; and Peter DeChiara, for the Committee to Elect Ron Carey. James Tol and Gary L. Kohurt, members of IBT Local Union 406, also audited the hearing.<sup>1</sup> 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"). In addition, Mr. DeVries submitted a written statement along with a copy of the minutes of the general membership meeting for Local Union 406 for September 25, 1991, in support of the Local's position in this matter.

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<sup>1</sup> Messrs. Tol and Kohurt did not file protests, nor were they named or otherwise involved in the protest that was the subject of this appeal, nonetheless they were permitted to audit the hearing.

3-91 TUE 20:35 INDEPENDENT BUREAU

In this case, the Election Officer has determined that Local 406 violated Article VIII, Sections 4. and 10.c. of the Election Rules by allowing one candidate for International Union Office to address a Local Union meeting without affording the same opportunity to the other candidates.

The facts of this case are uncomplicated. Karl Schobey, the President of Local Union 406, informally advised the representatives of the three slates of candidates for International Union Officer positions that representatives of those slates could visit the Local to campaign. Vicki Saporta, a candidate for International Vice President at large on the Shea-Ligurotis Action Team Slate, notified the Local in writing that she would attend the November general membership meeting. Prior to that meeting, Mr. DeVries informed Mr. DeHann, the Election Officer's Regional Coordinator, that Ms. Saporta intended to address the membership meeting and inquired whether "formal" notice to the other candidates would be necessary. Mr. DeHaan advised Mr. DeVries that such formal notice was necessary, however, no such notice was ever given.

At the November membership meeting, Ms. Saporta was allowed to make a campaign address in support of her candidacy and that of her fellow members on the Shea-Ligurotis Slate. No other candidates were present.

Based on these facts, the Election Officer determined that Local Union 406 had violated Article VIII, Section 4.a. (2) & (3) of the Election Rules which require that a Local Union grant equal

campaign time to all interested candidates whenever the Local opens its meetings to campaign activity. The Election Officer found a further violation of Article VIII, Section 10.c. which provides that union resources may not be used to assist in any candidate's campaign unless the resources are made equally available to all candidates and all candidates are notified in advance that the resources are available.

At the hearing before me, Local 406 argued that, by informally putting out the "word" that the Local was open to interested candidates, it had met its obligations under the above cited sections of the Election Rules. However, the Election Officer interprets these provisions as creating an obligation to formally inform all candidates of available campaign opportunities. Consistent with that interpretation, the Election Officer determined that an additional formal invitation to the other two slates to attend the November membership meeting was required after the Local learned that Ms. Saporta would be addressing that meeting. The Election Officer found that absent this additional notice, Local Union 406 had not effectively made the opportunity it afforded to Ms. Saporta equally available to the other candidates.

To the extent there was any doubt as to the obligation of the Local that doubt was resolved when Mr. DeVries was specifically informed by the Regional Coordinator that an additional notice or invitation to the other candidates was necessary. Notwithstanding this specific directive, the Local failed to provide such notice and went forward with the meeting as planned. Given this




background, the Election Officer's finding that Local Union 406 violated the Election Rules is a reasonable one.

Local Union 406 also objected to the remedy ordered by the Election Officer. The Election Officer directed the Local to mail to the entire membership of approximately 6,000 members, campaign literature supplied by the Durham and Carey Slates. The Local argued that it should only be obligated to mail to the 33 members who attended the meeting in question. As explained in earlier rulings, however, such a remedy "is a balanced, measured and appropriate method of restoring a level playing field." See In Re: Cook, 91 - Elec. App. 220 (SA) (November 8, 1991). See also, In Re: Ellis, 91 - Elec. App. - 203 (SA) (October 31, 1991).

In sum, both the Election Officer's finding that an Election Rules violation occurred and the remedy for that violation are reasoned efforts to effectuate the Election Rules and thus to ensure a fair, honest and open election. It is appropriate to hold Local Union 406 accountable for engaging in behavior that it knew in advance would constitute a violation and, that it could easily have avoided.

For the foregoing reasons, the decision of the Election Officer is affirmed in all respects.

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

Dated: December 3, 1991