

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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December 2, 1991

VIA UPS OVERNIGHT

Chris Scott
R. V. Durham Unity Team
508 Third Street, N.E.
Washington, D.C. 20003

Billy D. Mendenall
Secretary-Treasurer
IBT Local Union 580
1202 S. Washington
Lansing, MI 48910

Burt Burleson
Assistant City Attorney
124 W. Michigan Ave.
5th Floor
City Hall
Lansing, MI 48933

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

Re: Election Office Case No. P-1123-LU580-MGN

Gentlemen:

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 Chris Scott on behalf of the R. V. Durham Unity Team; the protest was subsequently supplemented by Hugh J. Beins, also on behalf of the R. V. Durham Unity Team. The protest contends that the City of Lansing, Michigan by its agent, Assistant City Attorney Burt Burleson, has violated the *Rules* by Mr. Burleson's campaign activities on behalf of IBT General President candidate Ron Carey and the Ron Carey Slate.¹ The protest was investigated by Regional Coordinator James DeHaan.

¹ Mr. Beins in his supplement further alleges that Ron Carey or the Ron Carey Slate bribed Mr. Burleson to do so, contending that Ron Carey or the Ron Carey Slate promised Mr. Burleson a job with the IBT if Mr. Carey is elected IBT General President. The Election Officer investigation found no evidence to support this contention.

Chris Scott
December 2, 1991
Page 2

The City of Lansing is a unit of municipal government in the State of Michigan. The IBT, through Local Union 580, represents certain employees of the City of Lansing but none of the employees in the Office of the City Attorney for the City of Lansing.

Mr. Burleson is an Assistant City Attorney in the Office of the City Attorney of the City of Lansing. He is not a member of the IBT. He is one of a number of Assistant City Attorneys similarly employed. He has no managerial or supervisory duties within the Office of the City Attorney. Other than clerical employees whose work he may direct but with respect to whom he has no supervisory or managerial authority, Mr. Burleson does not direct or control the hours, wages or terms or conditions of any employee and does not have authority to hire, fire or discipline any employee of the City of Lansing. Mr. Burleson as Assistant City Attorney has no responsibilities or duties in connection with labor relations for the City of Lansing and does not bargain, handle grievances or otherwise participate in the relationship between the City of Lansing and any labor organization, including but not limited to the IBT and IBT Local 580.

Mr. Burleson distributed campaign literature on behalf of Ron Carey and the Ron Carey Slate as a volunteer; he did not engage in any distribution while he was on city-paid work time. His campaign activity did not involve the utilization of supplies or services provided by the City of Lansing or any other person or entity. He gave campaign literature to approximately 15 members of Local 580, all of whom are employed in the Office of the City Clerk of the City of Lansing.

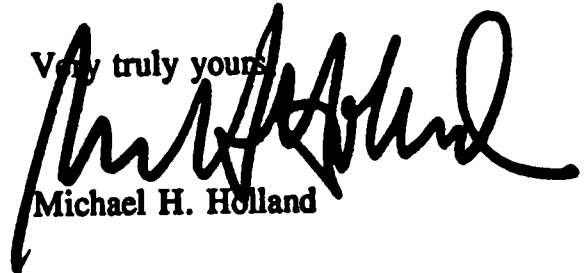
The *Rules* do not prohibit persons who are not IBT members from participating in campaign activities, including supporting or opposing any candidate for IBT International Union office, aiding or campaigning for any such candidate or making personal campaign contributions. The *Rules* prohibit such activity only on the part of an employer. *Rules*, Article X, § 1(b)(1). While supervisory and managerial employees are considered to be employers or representatives of employers under the *Rules*, see Advisory on Campaign Contributions and Disclosure, issued August 14, 1991 at pp. 11-13, the evidence demonstrates that Mr. Burleson is neither a supervisor nor manager. Further, the evidence demonstrates that Mr. Burleson, being an employee of an office of the City of Lansing in which the IBT represents no employees and having no responsibility for labor relations for the City of Lansing, could not reasonably be considered by members of the IBT to have been acting in furtherance of the City of Lansing's electoral policy or candidate preference. See Advisory at page 13.

The Election Officer concludes that Mr. Burleson is not an employer nor a representative of an employer. He is not prohibited from participating in the IBT International Union officer election as a volunteer, i.e., on non-city paid work time and without supplies or services provided by the City of Lansing. Accordingly, his campaign activities did not violate the *Rules* and the protest is DENIED.

Chris Scott
December 2, 1991
Page 3

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/mjv

cc: Frederick B. Lacey, Independent Administrator
James De Haan, Regional Coordinator
Hugh J. Beins, Esquire
Walter Shea
c/o Robert Baptiste, Esquire