

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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January 9, 1992

VIA UPS OVERNIGHT

Gene Giacumbo
President, IBT Local Union 843
446 Morris Avenue
Springfield, New Jersey 07081

James Cirillo
President
Teamsters for Liberty
53 Roehrs Avenue
Wallington, NJ 07055

Re: Election Office Case No. P-1149-JC73-NJE

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 Gene Giacumbo of IBT Local Union 843 and a successful candidate for International Union Vice President. Mr. Giacumbo contends that Teamsters for Liberty ("TFL"), a caucus of members of Local Union 560, participated in the recently concluded 1991 IBT International Union officer election as an independent committee, but failed to file Reporting and Disclosure statements with the Election Officer as required by the *Rules* and the Advisory on Campaign Contributions and Disclosure, issued August 14, 1991 ("Advisory"). The protest was investigated by Regional Coordinator Edward T. Ellis.

The Election Officer's investigation failed to disclose any evidence that Teamsters for Liberty made any monetary contributions through any candidate for IBT International Union office. Other than permitting candidates seeking International Union office on the Shea-Ligurotis Action Team to speak at a "hot dog rally" on September 14, 1991, which event will be further discussed below, there is no evidence that Teamsters for Liberty made any contributions--whether monetary, in-kind or otherwise--to any candidate for IBT International Union office.

On September 14, 1991, Teamsters for Liberty sponsored a "hot dog rally" as a fundraising event.¹ Tickets for the event were \$10.00 each and were sold by members of Teamsters for Liberty to IBT members both within and without Local 560 as well as

¹ Since its creation in approximately 1987, Teamsters for Liberty has held five or six similar fundraising rallies.

to individuals who were not members of the IBT. No leaflets were prepared by Teamsters for Liberty in connections with this fundraiser and the ticket, which served as the only written solicitation material, simply stated that the fundraiser was to benefit Teamsters for Liberty; no International Union officer candidate or slate of candidates was mentioned.

Frank Carracino, then a candidate for IBT International Union Vice President on the Shea-Ligurotis Action Team and a prior contributor to Teamsters for Liberty, was asked to attend the fundraiser. Mr. Carracino inquired whether he could bring other candidates on his slate. He was informed that he could do so and that he and the candidates would be permitted to speak. There is no evidence that Mr. Carracino's appearance--or the appearance of the other members of his slate--was known in advance by other than a few persons attending the fundraiser; there was no advertising of their attendance by anyone, including the Shea-Ligurotis Action Team.

The fundraiser was held as scheduled on September 14, 1991. Seven candidates on the Shea-Ligurotis Action Team attended: Walter Shea, Daniel Ligurotis, Frank Carracino, Vicki Saporta, John Morris, Barry Feinstein and William Genoese. All were required to purchase a ticket, and did so in order to gain entry into the hall where the fundraiser was being held. Mr. Carracino was introduced to the persons in attendance at the fundraiser; he introduced the other members of his slate. All the candidates on the Shea-Ligurotis Action Team spoke at the fundraiser.²

All costs associated with the fundraiser--printing of tickets, rental of the hall, food and drink--were paid for by Teamsters for Liberty; the sum expended was approximately \$3,710.00. The difference between the expenses and the gross receipts, approximately \$7000.00, was retained solely by Teamsters for Liberty. The money was utilized, in part, by Teamsters for Liberty to repay the debt incurred by it complying with the Election Officer's decision in Election Office Case No. P-169-LU560-NJE, affirmed 91-Elec. App.-110. No portion of the funds collected was utilized for campaign activity on behalf of any candidate for IBT International Union office.

The Advisory on Campaign Contributions and Disclosure required all independent committees to file with the Election Officer reporting and disclosure forms. Independent committees are defined as "any person or entity, not controlled by a candidate or slate, which accepts campaign contributions as that term is defined by the *Rules* or makes nay

² Since Teamsters for Liberty is a caucus of IBT members, its use of its fundraiser for activities benefitting specific International Union officer candidates, or a slate of candidates, does not violate the *Rules*. See, e.g., In Re Cook and IBT National Black Caucus, 91-Elec. App.-232, affirming Election Office Case Nos. P-955-IBT and P-1005-IBT.

expenditure where the purpose, object or foreseeable affect of that contribution or expenditure is to influence the election of an International Union officer candidate or candidates." The Advisory, however, limits the reporting requirement to only those committees which receive contributions or make expenditures in excess of \$1000.00. There is no evidence that Teamsters for Liberty received contributions other than contributions made to it, a contribution which is not a campaign contribution as that term is defined by the *Rules*. It is true that Teamsters for Liberty provided International Union officer candidates associated with the Shea-Liguoris Action Team an opportunity to campaign among persons attending the September 14, 1991 Teamsters for Liberty fundraiser. That opportunity had the purpose, object or foreseeable affect of influencing the International Union officer election; that opportunity constituted a contribution of something of value, and thus, a campaign contribution, by Teamsters for Liberty to the candidates on the Shea-Liguoris Action Team.

As noted above, however, since Teamsters for Liberty received no campaign contributions, its obligation to report would be triggered if and only if the value of the opportunity it gave to the candidates on the Shea-Liguoris Action Team to speak at the September 14, 1991 fundraiser exceeded \$1000.00.³ Quantifying the value of an opportunity to speak is an imprecise science at best. The candidates on the Shea-Liguoris Action Team were clearly afforded access to a substantial number of potential voters; approximately 600 IBT members were present at the time the candidates spoke. Yet, the total cost of the entire event was approximately \$3700.00, including refreshments provided to the guests. The speeches given by the candidates on the Shea-Liguoris Action Team occupied but a small portion of time of the fundraiser taken as a whole. Under these circumstances, the Election Officer concludes that the total value of the contribution made by Teamsters for Liberty to these candidates did not reach the level at which reporting is required under the *Rules* and the Advisory.

Accordingly, the protest is DENIED.

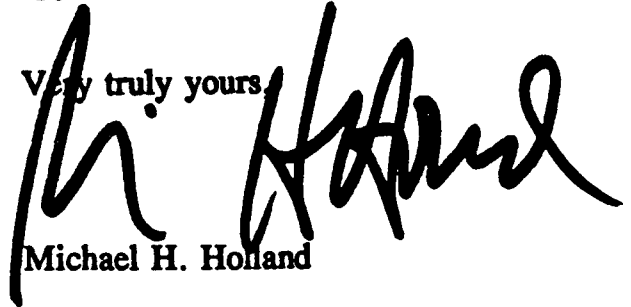
If any interested party is not satisfied with this determination, they may request a hearing before the Independent Administrator within twenty-four (24) hours of their receipt of this letter. The parties are reminded that, absent extraordinary circumstances, no party may rely upon evidence that was 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,

³ As indicated above, the Election Officer investigation found no other contributions whatsoever by Teamsters for Liberty to any International Union officer candidate.

Gene Giacumbo
January 9, 1992
Page 4

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 font. The first name "Michael" is written in a larger, more prominent script, and "H. Holland" follows in a similar but slightly smaller script.

Michael H. Holland

MHH/mjv

cc: Frederick B. Lacey, Independent Administrator

Edward T. Ellis, 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