



OFFICE OF THE ELECTION OFFICER  
% INTERNATIONAL BROTHERHOOD OF TEAMSTERS  
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Washington, DC 20001

Michael H. Holland  
Election Officer

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May 21, 1991

**VIA UPS OVERNIGHT**

William Darsey  
441 Wisso Road  
Griffin, GA 30223

R. Jerry Cook  
President  
IBT Local Union 528  
2540 Lakewood Avenue, S W.  
Atlanta, GA 30315

Joe Ethridge  
c/o IBT Local Union 528  
2540 Lakewood Avenue, S W  
Atlanta, GA 30315

**Re: Election Office Case No. P-254-LU528-SEC**

Gentlemen:

A protest was filed with the Election Officer pursuant to Article XI of the *Rules for the International Union Delegate and Officer Election*, revised August 1, 1990 ("*Rules*") In his protest, William Darsey alleges that the *Rules* were violated as a result of statements made by his shop steward, Joe Ethridge. The Election Officer's investigation of this protest revealed the following:

On the evening of January 9, 1991, Ethridge confronted Darsey in the drivers break room of the Gold Star company. Ethridge claimed that Darsey had defaced a copy of the "Teamster Election News" that Ethridge had placed on the bulletin board in the break room.

The "Teamster Election News" is a four page tabloid published by RL Communications of Detroit, Michigan. The publication is critical of Ron Carey and his candidacy for General President of the IBT. Darsey admitted defacing the literature but contends that the content of the literature was defamatory and its posting was violative of the *Rules*. Darsey does not allege that he was denied a similar opportunity to post his own campaign literature on the bulletin board.

Article VIII, Section 10 of the **Rules** guarantees the right of IBT members to engage in campaign activities in support of or in opposition to candidates for delegate, alternate delegate or International Officer position in the IBT. The "Teamster Election News" does not solicit support for any candidate and is an example of what has become known as negative campaigning. However, the Teamster Election News is a piece of campaign literature within the meaning of the **Rules** and its posting and distribution is an activity protected by the **Rules**. See, National Association of Letter Carriers v. Austin, 418 U S 264 (1974) (uninhibited and robust debate encouraged in labor matters, even allegedly defamatory statements permitted), Salzhandler v. Caputo, 316 F.2d 445 (2nd Cir 1963) (statements critical of Union officials, even if incorrect, protected). See also, **Rules**, Article VII, § 6(g) (censorship of campaign literature prohibited)

The confrontation between Ethridge and Darsey, while heated, did not involve violence or the threat of violence. The confrontation itself appears to have been motivated by Darsey's defacement of Ethridge's campaign literature. The Election Officer takes a dim view of the removal, defacement or obscuring of campaign literature. Darsey does not come before the Election Officer with clean hands and his conduct could itself be seen as a violation of the **Rules**.

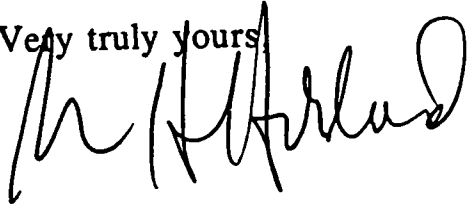
The instant protest is therefore **DENIED**.<sup>1</sup>

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<sup>1</sup> While unrelated to the allegations of this protest, the Election Officer notes that in the investigation of this protest, and other protests concerning the Teamster Election News, the Election Officer is examining the sources of funding of the publication and distribution of "Teamster Election News" by RL Communications. The Election Officer has concluded that if the publication and distribution of the "Teamster Election News" involved the use of union or employer contributions in violation of the **Rules**, such violation can and will be remedied by a reimbursement, with interest, of the prohibited contributions. Such remedy and, if appropriate, other remedies directed to RL Communications and the Union and/or employers making improper contributions are sufficient under the **Rules** to eradicate the effect of any such violation. See, e.g., Election Office Case No P-249-LU283-MGN.

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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  
Election Officer

MHH/pjm

cc: Frederick B. Lacey, Independent Administrator, IBT  
Donald Williams, Election Office Regional Coordinator  
Ron Carey Campaign, c/o Richard Gilberg, Esquire