

OFFICE OF THE ELECTION OFFICER
% INTL NATIONAL BROTHERHOOD OF TEAMSTERS
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Election Officer

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May 20, 1991

VIA UPS OVERNIGHT

Vincent L. Meredith
203 Elk River Drive
Louisville, KY 40214

Charles L. Spond, Jr.
Secretary-Treasurer
IBT Local Union 89
3813 Taylor Blvd
Louisville, KY 40215

Re: Election Office Case No. P-255-LU89-SCE

Gentlemen

A protest was filed pursuant to Article XI of the *Rules for the International Union Delegate and Officer Election*, revised August 1, 1990 ("*Rules*"). In his protest, Vincent L. Meredith alleges that the *Rules* were violated by the distribution of a four page tabloid entitled "Teamster Election News" in the employee parking lot of the United Parcel Service, ("UPS") main air Hub in Louisville, Kentucky. The Election Officer's investigation of this protest revealed the following

The "Teamsters 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.

On January 8, 1991, copies of the "Teamsters Election News" were distributed in the employee parking lot at the UPS air facility in Louisville. The distribution was accomplished by five individuals who placed copies of the tabloid under the wiper blades of cars parked in the lot. Two of the five individuals were retired IBT members and the other three were current members of the Local Union. There was no allegation that the individuals who distributed the literature did so on work time.

The gravamen of Mr Meredith's protest is the claim that the **Rules** were violated because these individuals had access to the parking lot of the UPS facility for the purpose of distributing campaign literature. While Meredith makes reference to a dispute concerning access to a UPS parking lot in Chicago, a matter which was resolved by the Election Officer, he does not allege that he was denied the opportunity to engage in campaign activities, including the distribution of campaign literature, in the employee parking lot. Nor does Mr. Meredith allege that other IBT members not employed by UPS were denied access to the Louisville hub parking lot for campaign purposes.

Mr Meredith also claims that the "Teamsters Election News" is not campaign literature because it does not have the names of sponsoring candidates on it. Thus, he apparently claims that its distribution should be prohibited by the Election Officer. The "Teamsters Election News" does not make positive reference to the candidacy of any IBT member. Instead, it attacks Ron Carey and his candidacy for General President of the IBT. While the Teamster Election News is a classic example of negative campaigning it is still campaign literature within the meaning of the **Rules**.

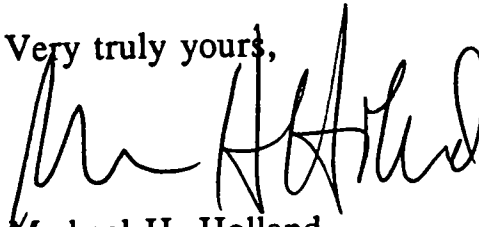
That the "Teamsters Election News" is anonymous literature, i.e., does not indicate the author, while perhaps an appropriate matter for campaign comment, does not remove it, its publication or distribution from the ambit of the **Rules**. The fact that the campaign statements contained in the "Teamsters Election News" were allegedly false or even defamatory does not remove such literature from the protection of the **Rules**. The model for free and fair Union elections is that of partisan political elections. In those elections, contestants are generally allowed to make whatever assertions, allegations, statements of opinion or even of alleged facts without legal sanctions for their or falseness. The cardinal principle is that the best remedy for untrue speech is more free speech, with the electorate being the final arbiter.

Thus, the fact that campaign statements are allegedly false, irrelevant or even defamatory does not remove them from the protection of the **Rules**. 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). The policy of encouraging robust debate in the selection of delegates and International Officers of the IBT is reflected in the **Rules'** prohibition of censorship of campaign literature. See **Rules**, Article VII, § 6 (g).

Under these circumstances, this protest is **DENIED**¹

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/pjm

cc. Frederick B. Lacey, Independent Administrator, IBT
Peggy A. Hillman, Election Office Regional Coordinator
Ron Carey Campaign, c/o Richard Gilberg, Esquire

¹ Although not specifically raised in the protest, in the investigation of this protest, and other protests concerning the "Teamsters Election News", the Election Officer is examining the source(s) of funding of the publication and distribution of "Teamsters 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 Election 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 any such violations. See, e.g. Election Office Case No. P-249-LU283-MGN