



OFFICE OF THE ELECTION OFFICER
% INTERNATIONAL BROTHERHOOD OF TEAMSTERS
25 Louisiana Avenue, NW
Washington, DC 20001

Michael H. Holland
Election Officer

(202) 624-8778
1-800-828-6496
Fax (202) 624-8792

May 21, 1991

VIA UPS OVERNIGHT

Debra McBride-Smith
6240 Meadow Lane
Salisbury, NC 28144

Conrad D. Sides
President
IBT Local Union 71
5000 N. Tryon Street
Charlotte, NC 28256

Mike Cruse
IBT Local Union 71
5000 N. Tryon Street
Charlotte, NC 28256

Ralph Durham, Jr.
IBT Local Union 71
5000 N. Tryon Street
Charlotte, NC 28156

Re: Election Office Case No. P-262-LU71-MID

Gentlemen and Madame

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 her protest, Debra McBride-Smith alleges that the *Rules* were violated as a result of the distribution of a four-page tabloid entitled "Teamster Election News" at her work place. The Election Officer's investigation of this protest revealed the following.

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.

On January 7, 1991, Ms. McBride-Smith noticed that copies of the "Teamster Election News" had been placed in employee lockers in the women's locker room of the UPS facility in Salisbury, North Carolina where she is employed. She was informed by a male employee that copies of the tabloid were also placed in the men's locker room.

The tabloid was distributed by Mike Crews on behalf of the Conrad Sides Slate¹. Crews is an employee of UPS, who distributed the literature on non-work time. Crews received the literature from Ralph Durham, Jr., a member of the Conrad Sides Slate and an employee of Local Union 71.

The Conrad Sides Slate, through its counsel, admitted that it was responsible for the distribution of the "Teamster Election News". The copies of the "Teamster Election News" were purchased by the Slate, using its own funds, from RL Communications in Detroit, Michigan. The Slate paid a total of \$458.00 for the copies of the tabloid.

The nature of other resources utilized in the publication of this remains under investigation. 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 effects of any such violation. See, e.g. Election Office Case No. P-249-LU283-MGN.

Article VIII, Section 10 (a) of the *Rules* guarantees the right of IBT members to participate in campaign activities, including the distribution of campaign literature, in support of, or in opposition to, any candidate for delegate or International Office in the IBT. Article VIII Section 10 (d) provides, inter alia, that no restrictions shall be placed on a member's pre-existing right to engage in campaign activity on employer premises. The Election Officer's

¹At the time the distribution occurred, the members of the Conrad Sides Slate were seeking election as delegates and alternate delegates to the 1991 IBT International Convention from Local 71. Such election has now concluded. No members of the Conrad Sides Slate were winning candidates in the election. The protest is not, however, moot. The International officer election has not concluded and Ron Carey remains a candidate for IBT General President in that election.

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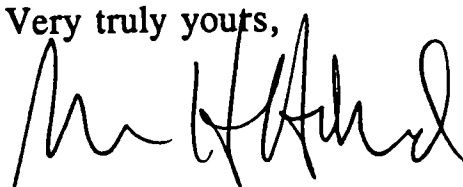
Advisory Regarding Political Rights, dated December 28, 1990, states that one of the pre-existing rights of IBT members is to engage in campaigning on the premises of their employer in non-work areas during non-work times.

In the instant case, the employee locker rooms where the literature in question was distributed is a non-work area. The literature was distributed on non-work time by an IBT member employed by UPS. The Election Officer therefore finds no violation of the *Rules* resulting from such distribution.

For the forgoing reasons, the instant 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, 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/pm

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