



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

Mark Serafinn
50 North Street
Saukeman, IL 61769

Kenneth Bishop
Secretary-Treasurer
IBT Local Union 722
344 N. 30th Road
La Salle, IL 61301

Re: Election Office No. P-272-LU722-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, Mark Serafinn alleges that the *Rules* were violated by the mailing to the membership of Local Union 722 copies of the "Teamster Election News". The Election Officer's investigation revealed the following.

During the course of the campaign for election of delegates to the 1991 IBT International Convention, the Reilly/Bishop slate sent out a campaign mailing to the membership of Local Union 722. The mailing included an item emphasizing the alleged independence of the Reilly/Bishop slate and a publication entitled the "Teamster Election News". 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.

Mr. Serafinn ran for delegate as part of a slate, i.e., the "Rank and File Slate". The Rank and File Slate supported and was identified with the candidacy of Ron Carey. All of the members of the Rank and File slate won the

election and were subsequently certified by the Election Officer.¹ Mr. Serafinn protests the content of the publication entitled "Teamster Election News".

Underlying the *Rules* is a firm policy against censorship or the regulation of the content of campaign literature. Article VIII, Section 6 (g) of the *Rules* specifically states that "[t]he Union may not censor, regulate, alter or inspect the contents of any candidate's campaign literature. The Union may not refuse to process or distribute any candidate's literature on the basis of its contents." This policy reflects the right of union members to engage in vigorous internal union debate free from the threat of internal union discipline for their campaign statements. See, eg, Petramale v. Laborers Local 17, 736 F. 2d 13 (2nd Cir. 1984), Semancik v UMW District 5, 80 LRRM 3475 (3rd Cir. 1972); Salzhandler v. Caputo, 316 F 2d 445 (2nd Cir. 1963). Similarly, the United States Supreme Court has recognized labor disputes ". . . are frequently characterized by bitter and extreme charges, countercharges, unfounded rumors, vituperations, personal accusations, misrepresentations and distortions. Old Dominion Branch No. 496 v. Austin, 418 U.S. 264, 272 (1974).

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 or opinion or even of alleged facts without legal sanctions for their truth or falseness. The cardinal principle is that the best remedy for untrue speech is more free speech, with the electorate being the final arbiter.

In light of the prohibition of censorship of campaign literature in the *Rules* and the overriding public policy favoring vigorous debate over labor issues, the Election Officer finds that the content of the "Teamster Election News" did not violate the *Rules*.

While, Mr. Serafinn in his protest raises no issues regarding the funding for the publication of "Teamster Election News," in the investigation of this protest, and other protests concerning the "Teamster Election News," the Election Officer is examining the source of funding of the publication and

¹ While the mailing was done by an opposing slate in the course of a delegate election campaign, and the members of the Rank and File Slate were elected, the instant protest is not moot. The primary thrust of the campaign mailing was the attack on Ron Carey, who was, and remains, a candidate for General President. That part of the protest concerning the "Teamster Election News" is, therefore, not moot.

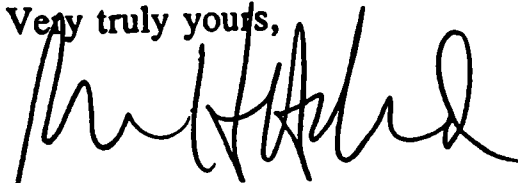
May 21, 1991
Page 3

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 any such violation. See, e.g. Election Officer Case No. P-249-LU283-MGN.

For these reasons and given that any violations of Article X of the *Rules* will be remedied by the Election Officer as set forth above, this 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/pjm

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