



OFFICE OF THE ELECTION OFFICER
% INTERNATIONAL BROTHERHOOD OF TEAMSTERS
25 Louisiana Avenue, NW
Washington, DC 20001
(202) 624 8778
1 800-828-6496
Fax (202) 624-8792

Michael H Holland
Election Officer

Chicago Office
% Cornfield and Feldman
343 South Dearborn Street
Chicago, IL 60604
(312) 922-2800

January 21, 1991

VIA UPS OVERNIGHT

Gene Mabe
Rt 1 Box 438
Statesville, NC 28679

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

Ken Worley
4378 Coddle Creek Dr
Harrisburg, NC 28075

Re: Election Office Case No. P-307-LU71-MID

Gentlemen

A pre-election protest has been filed pursuant to Article XI of the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("*Rules*") The Complainant, Gene Mabe, seeks to be elected as a delegate to the IBT International Convention in June, 1991 He is a member of a slate of candidates named the Rank and File Teamsters for Reform Slate He alleges that Ken Worley, a Local Union shop steward for the Yellow Freight facility, has torn down literature from the Union bulletin board which opposes the Conrad Sides Slate Mr Sides is the incumbent President of Local 71

The protest alleges that a member of Local 71, Clyde Shulford, saw Mr. Worley removing campaign literature supporting the Teamsters for Reform Slate from the Union bulletin board at a Yellow Freight terminal in Charlotte, North Carolina. Mr. Shulford confirmed this allegation in an interview. The protest also alleges that another member of Local 71, William Holt, saw Mr Worley removing literature supporting the Teamsters for Reform Slate An interview with Mr Holt confirmed that he saw Mr. Worley remove material about a Teamsters for Democratic Union ("TDU") rally in Atlanta, Georgia When Mr Holt saw Mr Worley, he jokingly said, "Look, there's one you missed" and Worley responded by tearing down the leaflet which Mr. Holt referred to Finally, Mr Holt narrated an incident wherein he had seen TDU literature on the bulletin board and it had disappeared after Mr Worley entered and left the breakroom within a span of five minutes

Mr Worley conceded that he supports the Conrad Sides slate, which is opposed the Teamsters for Reform Slate Mr. Holt and Mr. Shulford have no stated affiliation

Gene Mabe
Page 2

with either slate. Mr. Worley denies taking down any campaign literature at any time. He stated in an interview that literature from both slates had been torn down.

Based upon the specific testimony of two witnesses, the Election Officer finds that Mr. Worley tore opposition literature down from Union bulletin boards on at least two occasions. Such conduct violates the *Rules*. See *Rules*, Article VI, (g). Such conduct will not be tolerated on the part of either slate, if Mr. Worley can provide evidence that supporters of the Teamsters for Reform Slate are engaging in the same conduct, such individuals will be treated similarly.

Accordingly, the protest is GRANTED.

The remedy for this violation of the *Rules* is as follows. First, Mr. Worley must sign and post the attached Notice at the Yellow Freight facility in question. The Notice states that he will not engage in similar conduct in the future. Second, the president of Local 71 is directed to send the attached letter to all Business Agents or shop stewards which directs them to refrain from tearing down campaign literature from bulletin boards. Mr. Worley should submit an affidavit to this Office stating that he has signed and posted his notice within 48 hours of receiving this decision. Mr. Sides should submit a similar affidavit stating that he has mailed the required letter within the same period.

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/mca

cc Frederick B. Lacey, Independent Administrator
Grant Crandall, Regional Coordinator
Griff Morgan

NOTICE TO TEAMSTER MEMBERS

FROM KEN WORLEY

I will not interfere with the right of members to campaign on behalf of candidates for delegate and alternate delegate to the 1991 IBT International Convention

I will not interfere with the right of members to use Union bulletin boards to distribute campaign material supporting candidates for delegate and alternate delegate to the 1991 IBT International Convention

I will not remove literature put up by opposition candidates or supporters for candidates for delegate and alternate delegate from Union bulletin boards.

Ken Worley

This is an official notice and must remain posted for thirty consecutive days from the day of posting, and must not be altered, defaced or covered by any other material

To All Local 71 Business Agents and Union Stewards

The Office of the Election Officer has determined that Local steward Ken Worley violated the Election *Rules* by removing literature from the Union bulletin board at Yellow Freight

It is a violation of the Election *Rules* to remove campaign literature from bulletin boards where such boards have previously contained any material posted by members.

Accordingly, you are not to remove any such campaign literature. If a member brings a similar situation to your attention, you should, if feasible, immediately assure that the literature is reposted

Very truly yours,

**Conrad Sides
President, Local 71**

7

Bearing in mind these two provisions of the Rules, it is clear that the members of Local 71 have the right to post campaign material on the general purpose Union bulletin board located in the drivers' breakroom in the Yellow Freight facility in Charlotte, North Carolina (the "Charlotte facility").

At issue here is a factual dispute. Gene Mabe, a member of Local 71, and a member of a slate of candidates known as the Rank and File Teamsters for Reform Slate (the "Reform Slate") contends that the Local's shop steward, Ken Worley, removed Mr. Mabe's Reform Slate campaign literature from the general purpose Union bulletin board at the Charlotte facility. Mr. Worley, a supporter of the opposing slate formed by the Local's President Conrad Sides, denies removing Mr. Mabe's campaign material, and further denies ever removing any literature of any kind from the general purpose bulletin board.

The Election Officer, through his Regional Coordinator, investigated Mr. Mabe's protest. As part of that investigation, a member of the Local, Clyde Shulford, was interviewed by telephone by Mr. Morgan, the Adjunct Regional Coordinator. During his interview, Mr. Shulford stated that on January 5, 1991, he saw Mr. Worley remove campaign literature supporting the Reform Slate from the general purpose union bulletin board at the Charlotte facility. Mr. Shulford also told of another incident where literature was removed from the general purpose union bulletin board, and he later saw Mr. Worley on the premises. The only time Mr. Shulford

actually saw Mr. Worley remove literature, however, was on January 5, 1991.

An interview with another Local member, William Holt, revealed that he saw Mr. Worley remove Teamsters for Democratic Union ("TDU") literature from the general purpose Union board at the Charlotte facility. Mr. Holt also testified at the hearing.¹ During his testimony, Mr. Holt could not remember the date of the incident. He indicated it happened approximately 2-4 months ago. It appears clear that it occurred before the Local's nomination meeting took place.

In his interview with the Adjunct Regional Coordinator Mr. Holt stated that on that same day he later saw Mr. Worley in the dispatch room, which is upstairs from the breakroom, and he [Mr. Holt] jokingly said, "Look, there's one you missed," and Mr. Worley responded by tearing down a TDU leaflet from the bulletin board at that location. Mr. Holt testified at the hearing that the bulletin board in the dispatch room was not glass-enclosed. Witnesses for the Local were adamant that the bulletin board in the dispatch room has always been glass-enclosed and has always been dedicated as the official union bulletin board. Mr. Worley admits removing TDU literature from that bulletin board, but emphasizes that it was an official union bulletin board and thus, he was authorized to do so.

¹ The Election Officer indicated that he only made arrangements to have Mr. Holt testify at the hearing because Local 71 had alleged that Mr. Holt had recanted on his earlier statement to the Election Officer.


I do not find Mr. Worley to be a credible witness when he denies removing any literature from the general purpose bulletin board in the breakroom at the Charlotte facility. His statement in this regard is refuted by: (1) Mr. Schulford's statement that he witnessed Mr. Worley remove "Reform Slate" material from the general purpose bulletin board on January 5, 1991; and (2) Mr. Holt's testimony that he witnessed Mr. Worley remove TDU literature from the general purpose bulletin board some months ago.² I emphasize, however, that the incident involving the TDU literature is considered for credibility purposes only and is not the subject of this appeal.

Having resolved the factual dispute adversely to Mr. Worley I turn to the remedy to be imposed.

I view Mr. Worley's actions on January 5, 1991, in removing the Reform Slate literature from the general purpose bulletin board, a serious transgression of the Rules. Thus, I direct Mr. Worley to sign and post the attached Notice on both the general purpose bulletin board and the "official" union board at the Charlotte facility. The Notice shall remain posted until the Election Officer certifies the election results for International Officers. In addition, I direct the President of Local 71, Conrad Sides, to send the attached Notice to all Local 71 Business Agents and Shop Stewards.

² I am satisfied that the incident in the dispatch room involved an official union bulletin board and is therefore not probative.

Mr. Worley shall submit an affidavit to the Election Officer, within 48 hours of receiving this decision, stating that he has signed and posted the Notice as directed. Mr. Sides shall submit his own affidavit to the Election Officer within 48 hours of receiving this decision, stating that he has mailed the required Notice as directed.



Frederick B. Lacey
Independent Administrator
By: Stuart Alderoty, Designee

Dated: January 29, 1991.

NOTICE TO TEAMSTER MEMBERS

FROM KEN WORLEY

The Court-appointed Independent Administrator has determined that I have violated the Rules For The IBT International Union Delegate And Officer Election by removing campaign literature from the general purpose bulletin board at the Yellow Freight facility in Charlotte, North Carolina.

In the future, I will not interfere with the right of Teamster members to campaign on behalf of candidates for delegate and alternate delegate to the 1991 IBT International Convention as well as candidates for International Office.

In the future, I will not interfere with the right of Teamster members to use the general purpose bulletin board to distribute campaign material supporting candidates for delegate and alternate delegate to the 1991 IBT International Convention as well as candidates for International Office.

In the future, I will not remove literature posted by opposition candidates or supporters for candidates for delegate, alternate delegate and International Office from the general purpose bulletin board.

Dated: _____

Ken Worley
Shop Steward

TO ALL LOCAL 71 BUSINESS AGENTS AND UNION STEWARDS

The Court-appointed Independent Administrator has determined that Local Steward Ken Worley violated the Rules For The IBT International Union Delegate And Officer Election (the "Election Rules") by removing literature from the general purpose bulletin board at the Yellow Freight facility in Charlotte, North Carolina.

It is a violation of the Election Rules to remove campaign literature from bulletin boards where such boards have previously contained any material posted by members.

Accordingly, you are not to remove any such campaign literature from any general purpose bulletin board. If a member brings a similar situation to your attention, you should attempt to immediately assure that the literature is reposted. In addition, you should immediately bring the matter to my attention. Lastly, you should inform the party whose literature was removed (if his/her identity is known) that the removal of the literature is a violation of the Election Rules and that they have the right to bring the matter to the Election Officer's attention.

Conrad Sides, President