



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

Michael H Holland
Election Officer

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May 29, 1991

Via UPS Next Day Air

Francis McSweeney
103 Sun Shine Circle
Plainfield, IL 60544

Daniel Ligurotis
Secretary-Treasurer
IBT Local Union 705
300 S Ashland Ave
Chicago, IL 60607

William Joyce
Secretary-Treasurer
IBT Local Union 710
4217 S Halsted Street
Chicago, Il 60609

Re Election Office Case No P-340-LU705,710-CHI

Gentlemen

A protest was filed with the Election Officer pursuant to Article XI of the Rules for the IBT International Union Delegate and Officer Election, revised August 1, 1990 ("Election Rules") In his protest Mr Francis McSweeney alleges that the Election Rules were violated by the distribution of the "Teamster Election News" by a Local Union 705 shop steward at a United Parcel Service ("UPS") facility and outside of the Local Union 710 nominations meeting 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

The first allegation in Mr McSweeney's protest concerns the distribution of the "Teamster Election News" by a Local Union 705 shop steward employed at the UPS facility at Bedford Park, Illinois Mr McSweeney alleged that the steward distributed the literature on work time in a work area in violation of the Election Rules However, Mr McSweeney did not personally witness the alleged distribution and was unable to identify the Local Union 705 member who was the recipient of the literature, other than by his first name Based upon the information provided by Mr McSweeney, the Election Officer was unable to substantiate his claim

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Mr McSweeney also alleges that the "Teamster Election News" was distributed outside of the Local Union 710 nominations meeting. The Election Officer's investigation revealed that the literature was passed out at the entrances of the Local Union 710 hall at the time of the Union's nominations meetings. Mr McSweeney does not allege that other candidates were denied the opportunity to pass out campaign literature outside of the meeting.

Mr McSweeney makes a general allegation about the financing of the publication of the "Teamster Election News". The Election Officer has determined that copies of the "Teamster Election News" were purchased by members of Local Union 705 and 710 from RL Communications. However, the Election Officer is examining the source(s) 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" involves 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 Election Rules to eradicate any such violations. See e.g., Election Office Case No P-249-LU283-MGN.

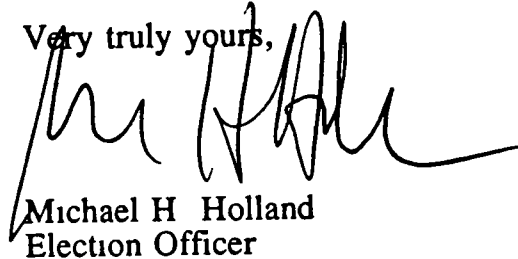
Mr McSweeney also alleges that the "Teamster Election News" is smut and libelous of Ron Carey. However, underlying the Election Rules is a firm policy against censorship or the regulation of the content of campaign literature. Article VIII, Section 6 (g) of the Election Rules specifically states that "[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).

For the forgoing reasons, the Election Officer denies the instant protest.

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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,

A handwritten signature in black ink, appearing to read "Michael H. Holland". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Michael H Holland
Election Officer

MHH/pjm

cc Frederick B Lacey, Independent Administrator, IBT
Julie Hamos, Regional Coordinator