



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

February 22, 1991

VIA UPS OVERNIGHT

David Kapitula
741 Weavertown Rd
Shavertown, PA 18704

Corcoran Printers
171 N Main St
Wilkes-Barre, PA 18703

Joseph Gorham
Secretary-Treasurer
IBT Local Union 401
260 S Washington St.
Wilkes-Barre, PA 18703

Re: Election Office Case No. P-513-LU401-PHL

Gentlemen:

A pre-election protest was filed under the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("Rules") Complainant, David Kapitula alleges that officers of Local Union 401 interfered with the printing of his campaign literature. The Election Officer conducted an investigation and determined the following:

Complainant brought campaign material (3000 slate cards) with an IBT logo to Corcoran Printers to be printed on or about February 11, 1991. On Thursday, February 14, he received proofs back without the logo. Investigation establishes that Corcoran ran the printing without the logo based upon objections to the use of the logo from Local 401's officers. Complainant filed his protest on February 15, 1991 and on the same day submitted his materials for printing to a different printer, Lahr's Printing. The quote for the printing of the 3,000 cards from Corcoran Printers was \$155.00 plus tax for a total of \$164.30. The cost to Complainant of the printing, as substantiated by an invoice from Lahr's Printing, was \$242.74 for the same job.

The Election Officer's Regional Coordinator Peter V. Marks, Sr. after receiving the protest, immediately communicated with Mr. Joseph Gorham, Secretary-Treasurer of Local Union 401. Mr. Gorham expressed the view that it was his understanding that an IBT logo could not be used on campaign material. The Regional Coordinator provided Mr. Gorham with previously issued authority from the Election Officer.

David Kapitula
Page 2

establishing that under the *Rules* the use of the Teamsters logo on campaign materials, and other than on the Union's official stationery is not prohibited. See Election Officer Case No P-226-LU182-PGH and 91-Elec App -40. After receipt of this material from the Regional Coordinator, Mr Gorham withdrew his objections to the printing of Complainant's materials with the IBT logo on it and advised the Regional Coordinator that he would fully cooperate with the Election Officer's requirements.

Corcoran Printers subsequently advised the Regional Coordinator that he would print Complainant's campaign materials and that they would be ready to be picked up on Thursday, February 21 at 1 00 or 2 00 p m with the logo included. This offer was not acted upon, however, because Complainant Kapitula had already made prior alternative arrangements for the printing by Lahr's Printing.

The Election Officer has previously ruled in Article X, § 1 (b)(3) of the *Rules* does not prohibit the utilization of the IBT logo on campaign literature. The only restriction is on use of Union's insignia on Union's official stationery. Nevertheless, it appears that this incident arose because of genuine confusion on the part of the Local Union officers as to the using of the logo on campaign literature. Conversely, Complainant was within his rights to expect his materials to be printed as he submitted them. It also was reasonable for him to immediately take steps to have material printed at another printer once he learned that the materials would not be run by Corcoran Printers with the logo. Accordingly, the Election Officer finds that a violation of the *Rules* has occurred.

Mr Kapitula was not harmed by the delay in the availability of his campaign materials since the incident has been remedied by action by the Regional Coordinator's office to delay mailing of the ballots did not occur until Friday, February 22, 1991. Complainant was, however, required to incur an additional expense of \$78.44 because he had to place the job with Lahr's Printing. The Local Union is directed to reimburse Complainant in the amount of \$78.44. Accordingly, the protest is GRANTED, with the relief ordered as herein specified.

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

David Kapitula
Page 3

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
Peter Marks, Regional Coordinator