



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 25, 1991

VIA UPS OVERNIGHT

Paul Hammontree
7112 Woodstock Road
Millington, TN 38053

Jimmy W Carrington
President
IBT Local Union 667
796 E Brooks Avenue
Memphis, TN 38116

Re: Election Office Case No. P-530-LU667-SOU

Gentlemen

A pre-election protest was filed pursuant to the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("*Rules*") The protestor, Paul Hammontree, contends that members of the Carrington's Team for Rank and File Vote violated the *Rules* with respect to campaign literature they distributed Mr Hammontree protests the content of the literature, the envelope in which it was mailed, and the fact that it contained a sample ballot in which the Carrington Slate name and the members seeking election as delegate and alternate delegates as part of the slate were printed in bolder typeface than the other slates and candidates Mr Hammontree also contends that the literature was mailed with Local Union funds

The *Rules* do not regulate the contents of campaign materials Open robust campaigning is encouraged Campaign literature is not to be censored *Rules*, Article VIII, §6(g) Thus, the publication or distribution of campaign materials is even if allegedly not truthful or even libelous and not a violation of the *Rules* National Association of Letter Carriers v Austin, 418 U S 264 (1974) (uninhibited and robust debate encouraged in labor matters even allegedly defamatory statements permitted)

The *Rules* do not prohibit the utilization of Union insignia on campaign literature The *Rules* only prohibit the use of official Union stationery containing such insignia *Rules*, Article X, §1(b)(3) The campaign material here was not printed on official Union stationery The envelope in which the campaign material was mailed was not a Local Union envelope, the envelope contained neither the number or address of the Local Union Thus, use of the Union insignia does not violate the *Rules* In Re Terrance

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Majka and Al Seablak, 91 Elec App 40 Further, since the campaign materials was not mailed through the utilization of the Local's non-profit mailing permit and the envelope in which it was mailed did not include the Local Union number or the address, no disclaimer was required by the *Rules Rules*, Article VIII, §6(a)(3)

The sample ballot contained in the mailing also does not violate the *Rules* The document indicates on its face, and in large typeface, that it is a sample ballot The sample ballot was accompanied by other materials clearly indicating that the entirety of the mailing was campaign literature seeking support for the Carrington Slate Under these circumstances, it is unlikely that any Local 667 member would be misled because the name of the Carrington Slate and the candidates listed under that slate name were printed in bolder print than the other slates and candidates

The Election Officer's investigation also determined that the mailing was accomplished without utilization of Local Union 667 funds

Accordingly, for all of the foregoing reasons, the 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/mca

cc Frederick B Lacey, Independent Administrator
Larry D Daves, Regional Coordinator