



OFFICE OF THE ELECTION OFFICER  
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Michael H Holland  
Election Officer

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March 7, 1991

**VIA UPS OVERNIGHT**

Roger A Smith  
502 Avalon Way  
Suisun City, CA 94585

Charles D Roberts  
Secretary-Treasurer  
IBT Local 896  
1616 W Ninth St  
Room 414  
Los Angeles, CA 90015

Claudia Settle  
c/o Experienced Stewards for  
Change & Unity Slate  
c/o Local Union 896  
1616 W Ninth St  
Room 414  
Los Angeles, CA 90015

**Re: Election Office Case No. P-604-LU896-CLA**

Gentlemen

Roger A Smith filed a pre-election protest pursuant to the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("*Rules*") The protest alleges that Claudia Settle and the slate entitled, "Experienced Stewards for Change & Unity Slate" have violated the *Rules* by use of that slate name Mr Smith contends that the slate name implies that all the members running on the slate are stewards with experience and further contends that this is untrue Thus, he alleges that the use of the slate name is likely to mislead the voters Smith appears to be asserting that use of this name is improper since the name implies a fact that is allegedly not true

The *Rules*, Article VII allows candidates to run as part of a slate, and does not regulate slate name As long as the slate name does not denote incumbency, is not obscene and is not too lengthy for the ballot, the slate may choose any name it desires *Rules*, Article II, § 8 (e) and Article V, § 4, see also P-115-LU406-MGN Since the slate name here does not denote incumbency, is not obscene and is not excessively lengthy, its use will not be prohibited

The allegation that the slate name implies a fact that is purportedly untrue, i e , that all members are experienced stewards, also does not provide a basis for prohibiting

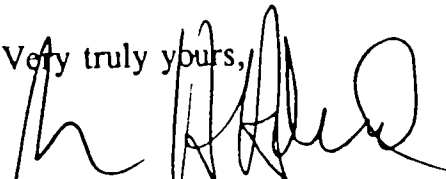
Roger A Smith  
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its use First, the Election Officer has verified that all slate members are indeed stewards Even assuming they were not, the use of the name "Experienced Stewards for Change & Unity Slate" would not violate the *Rules* The choice and use of a slate name constitutes part of the campaign activities undertaken by the members of such slate The fact that the campaign statements or literature contain false, irrelevant or even defamatory information does not remove it from the protection of the Election *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), Salzhandler v. Caputo, 316 F 2d 445 (2nd Cir 1963) (statements critical of Union officials, even if incorrect, protected)

The model for fair and free Union elections is that of partisan political elections In those elections, contestants are generally allowed to make whatever assertions, allegations, statements of 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 The policy encouraging robust political debate in the selection of delegates and International Officers of the IBT is reflected in the *Rules* prohibition against the censorship of campaign literature See *Rules*, Article VIII, § 6 (g) Thus the use of a slate name that allegedly conveys false information does not violate the Rule

For all the reasons stated 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/mca

cc Frederick B Lacey, Independent Administrator  
Geraldine L Leshin, Regional Coordinator