



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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April 3, 1991

VIA UPS OVERNIGHT

Steve J. Rakes
P O Box 40441
Raleigh, NC 27629

R V. Durham
President
IBT Local Union 391
3100 Sandy Ridge Rd
Colfax, NC 27235

Russ Hogan
c/o Local Union 391
3100 Sandy Ridge Rd
Colfax, NC 27235

Re: Election Office Case No. P-681-LU391-MID

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*") In his protest, Steve J. Rakes contends that the Local Union copied and distributed campaign material on behalf of the Durham-Blevins Unity Team in violation of the *Rules*

The Election Officer investigation determined that the literature in question consisted of a one-page letter written by R. H. Hogan as a Business Agent of Local 391 to Steve Rakes, in connection with a complaint filed by Rakes regarding Doug Ragone, another member of Local 391 employed, like Rakes, at UPS. That letter was sent to Rakes by Hogan and copies given, as indicated on the letter, to the UPS shop steward, Charles B. "Buddy" Tyndall and Ragone. The letter was subsequently altered by handwritten comments being placed thereon. Among the hand-written comments are statements disparaging of Rakes as well as statements urging support for the Durham-Blevins Unity Team. It is this altered letter which Rakes contends was prepared, copied and distributed by the Local Union.

Rakes has no independent information as to the preparation, copying or distribution of the altered letter. He denies giving his copy of the original March 4 letter to anyone. Similarly, Hogan, Tyndall and Ragone, the other three Local 391 officers or members who had copies of the original letter, also deny giving the letter to any other

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member or individual All four deny "turning" the letter into campaign literature All four deny copying or distributing the letter

The Election Officer investigation was unable to uncover the identity of the member or person who altered, copied or distributed the March 4 letter No information was uncovered suggesting that the Local Union or any officer or business agent of Local 391 altered, copied or distributed the letter

Rakes also complains as to the content of the altered letter The Election Officer has consistently refused to regulate the content of campaign literature The Election *Rules* encourage free and open campaigning That campaign literature may be untrue or even slanderous does not remove it from the protection of the *Rules* See, e g , *Rules*, Article VIII, § 6 (g) prohibiting the censorship, regulation, alteration or inspection of the contents of any campaign literature

For the foregoing reasons, 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
Grant Crandall, Regional Coordinator