



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

Michael H. Holland
Election Officer

(202) 624-8778
1-800-828-6496
Fax (202) 624-8792

April 29, 1991

VIA UPS OVERNIGHT

Gary L. Gregory
9601 Bakeway Drive
Indianapolis, IN 46231

John N. Neal
President
Teamsters Local 135
1233 Shelby St
Indianapolis, IN 46203

Dale Oliver
c/o Consolidated Freightways
3915 W Morris St
Indianapolis, In 46241

Re: Election Office Case No. P-724-LU135-SCE

Gentlemen

A protest has been filed pursuant to Article XI of the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("Rules"). In his protest, Gary Gregory alleges that his employer Consolidated Freightways has instituted a work place rule prohibiting gambling solely for the purpose of impeding Gregory's fund raising efforts on behalf of Ron Carey, candidate for IBT General President.

The protest was investigated by Regional Coordinator Peggy A. Hillman. The investigation discloses the following facts: Gregory is an unsuccessful delegate candidate. He and other members of his slate are supporters of Ron Carey, and have used raffles to raise money for their campaign activities. They have conducted several such raffles, and sold many of the tickets to IBT members employed by Consolidated Freight. The raffles have monetary prizes. In one such raffle, \$300 was given the first prize winner, \$200 the second prize winner, and \$100 the third prize winner. Gregory checked with the Indianapolis Police Department prior to commencing the sale of raffle tickets, and was informed by the Police Department that there was no legal prohibition against the promotion of a raffle.

Gregory states that many such raffles or pools have been conducted by IBT members employed by Consolidated Freightways. He states, for example, Local 135 has conducted such a raffle during the past year. Recently, IBT members employed at Consolidated Freightways conducted an NCAA pool in which the Consolidated dispatcher won \$350.00.

On March 26, 1991 the assistant terminal manager issued a memorandum which states

Effective immediately, there will be no gambling of any kind permitted on company property. This includes all card playing (for money), spot cards, football or raceway pools or any other type pools.

Gregory clarified with the terminal manager that the memo applied to his raffle, campaign fund-raising activities. Gregory alleges that the promulgation of the rule by his employer was motivated by its hostility to the candidacy of Ron Carey.

Article VIII, § 10(a) of the *Rules* provides, in part, that all IBT members retain the right to "participate in campaign activities including the right to run for office, to openly support or oppose any candidate, to aid or campaign for any candidate, and to make personal campaign contributions." Implicit in the right to make personal campaign contributions is the right to solicit such contributions consistent with the limitations of Article X, § 1 of the *Rules*.

The *Rules* provide further that "no restrictions shall be placed upon candidates or members pre-existing rights to solicit support, distribute leaflets or literature, conduct campaign rallies, hold fundraising events or engage in similar activities in employer or union premises." Thus, it is clear that Gregory has the right under the *Rules* to raise money for his campaign and for the Ron Carey campaign, including the selling of raffle tickets.

Dale Oliver, the Assistant Terminal Manager, states that Consolidated Freightways has a policy against gambling, but that he permitted pools and raffles at his terminal in the past. This year, however, he has received complaints from several wives who told him that IBT members were losing entire paychecks as the result of gambling activity in the breakroom. Thus, he issued the memorandum. He stated that no standard existed to enable him to distinguish between "real" gambling and the sorts of pools and raffles which occur, for clubs, fundraisers, or sporting events. Therefore, when he promulgated his memo, he decided to prohibit all such activities.

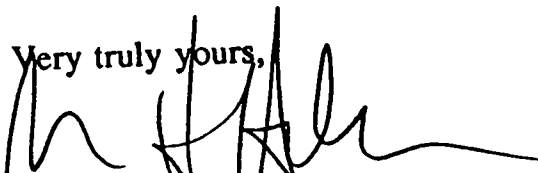
The Election Officer concludes that there is insufficient evidence to determine that Consolidated Freightways promulgation of the anti-gambling rule was motivated by animus for or against any delegate, alternate delegate or International officer candidate or campaign. Consolidated has proffered a neutral rationale for changing its past practice with respect to gambling activities. Moreover, there is no evidence that the rule has been selectively enforced against election related fund raising activities as opposed

Gary L Gregory
Page 3

to other "pool" or raffle activities Likewise there is no evidence that the rule has been enforced discriminatorily based upon the candidate on whose behalf the raffle or similar activity was being conducted

Other than selling raffle tickets or engaging in other gambling activity, Gregory is not prohibited by the employer from campaign fundraising on company property. He retains the right to solicit donations on behalf of the Carey campaign from IBT members in non-work areas on non-work time He also retains the right to promote his raffle, assuming compliance with applicable law, to IBT members employed by Consolidated in locations other than on Consolidated property His fundraising activities for Ron Carey have only been foreclosed in the most limited fashion The Election Officer concludes in this case that Consolidated's newly promulgated work rule does not violate the *Rules* Thus, 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/mjv

cc Frederick B Lacey, Independent Administrator
Peggy A Hillman, Regional Coordinator