



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

July 18, 1991

VIA UPS OVERNIGHT

Carlo L. Del Pizzo
6 Sherwood Rd
Edison, NJ 08820

Gene Giacumbo
President
Teamsters Local 843
446 Morris Ave
Springfield, NJ 07081

Randolph Heat
234 Winans Ave
Hillside, NJ 07205

Re: Election Office Case No. P-727-LU843-NJE

Gentlemen

A protest was filed in accordance with Article XI of *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("Rules"). The protest was filed by Carlo Del Pizzo, a member and former President of Local 843 and an unsuccessful candidate for delegate to the 1991 IBT International Convention from Local 843. Mr. Del Pizzo alleges that Gene Giacumbo, President of Local 843, and Randolph Heat, a member of Local 843, used Union funds to engage in campaign activities in support of Ron Carey's candidacy for General President of the IBT. Specifically, Del Pizzo alleges that Giacumbo, Heat and other members of Local 843 traveled, at Union expense, to various parts of the United States to campaign for Carey under the guise of campaigning against a proposed collective bargaining agreement between Anheuser-Busch and the IBT. The protest was investigated by a group of Election Office Regional Coordinators Edward Ellis, Bruce Boyens, Joyce Goldstein, Geraldine Leshin, Don Williams, Don Twohey, William Kane, Mike Gordon, and Grant Crandall.

The investigation discloses that Local 843 members did in fact travel to various Anheuser Busch sites to urge IBT members to reject the proposed contract.¹ Local 843

¹Anheuser Busch has 12 breweries, located in 10 different states, where IBT members are employed. The locations include Baldwinsville, New York, Williamsburg, Virginia, Jacksonville, Florida, St. Louis, Missouri, Columbus, Ohio, Golden, Colorado,

Mr Carlo L Del Pizzo
Page 2

paid for the costs of airfare, lodging and meals associated with these trips. There is no evidence that campaigning for Ron Carey or any other election related campaigning occurred at any of the sites other than at those plants visited on the West Coast, and as noted below.

Giacumbo visited the Baldwinsville, New York brewery, whose employees are represented by Local 1149, on at least two occasions during the month of March. During Mr Giacumbo's first visit to Baldwinsville, when he tried to hand out literature about the proposed contract on the plant property of Anheuser-Busch, the company denied him access. Instead Giacumbo distributed literature to members on the street as they entered and exited the plant parking lot. During his second visit to the plant the company permitted Giacumbo and a few other members of Local 843 to distribute literature critical of the Anheuser-Busch proposed contract inside the parking lot area. James Howe, the Local 1149 Secretary-Treasurer who works at the Baldwinsville Anheuser-Busch plant, stated that he received literature from Mr Giacumbo and other members of Local 843. One of the pieces of literature he received was produced by Teamsters for a Democratic Union (TDU) concerning the proposed contract, the other piece, produced by Local 843, urged the members to vote against the contract. Mr Howe further states that he did not see Mr Giacumbo speaking to any members on behalf of Ron Carey's candidacy.

The investigation also establishes that prior to March of 1991, Mr Giacumbo and/or other members in Local 843 traveled to two Anheuser-Busch facilities in Florida. Mr Clarence Folts, Secretary-Treasurer of Local 388 in Tampa, Florida, stated that some members of Local 843 came to the Tampa area to campaign against the contract at the large Anheuser-Busch brewery located in Tampa. Mr Folts states that to the best of his knowledge, Mr Giacumbo did not accompany the other Local 843 members to Tampa. He also states that he has no knowledge of any Local 843 member engaging in campaign activity on behalf of candidate Ron Carey or any other candidate. The literature distributed was solely related to the contract.

The Vice-President of Local 947 in Jacksonville, Florida, Connie Hodges, also states that members of Local 843 visited Anheuser-Busch plants within his Local's jurisdiction prior to the Anheuser-Busch contract vote. Mr Hodges says that he did not observe any of the members wearing campaign buttons or any other type of campaign paraphernalia nor did he see them distributing any campaign literature.

The Election Officer investigation also determined that members of Local 843 traveled to Anheuser-Busch brewery sites located in Williamsburg, Virginia, Golden, Colorado, Columbus, Ohio, and St Louis, Missouri. Interviews were conducted with IBT members employed at all such breweries. The Election Officer investigation failed to uncover any evidence that the Local 843 members engaged in any activity during these trips other than activity relating to their campaign against ratification of the

and Fairfield and Los Angeles, California, among others. Sixteen IBT Locals have and represent members at those breweries.

Mr Carlo L Del Pizzo
Page 3

proposed Anheuser-Busch-IBT proposed contract

On Monday and Tuesday March 4 and March 5, 1991 members of Local Union 843 traveled to California and went to two Anheuser-Busch facilities located in that state. One group went to the Los Angeles facility and the other to the Fairfield facility. Each group was given literature to distribute that was prepared by Local 843.

The evidence shows that none of the literature made any reference to Ron Carey or his campaign for General President of the IBT. The Election Officer's investigation determined that the only literature printed at Union expense was printed at the MinuteMan Press Shop in Red Bank, New Jersey. The Election Officer's investigation determined that all literature so printed related to the proposed collective bargaining agreement, encouraging the rejection of such agreement. Representatives of the MinuteMan Press Shop confirmed that no campaign literature, whether with respect to the candidacy of Ron Carey or any other candidate, was printed at Union expense.

For approximately two hours on March 6, 1991, Carey and some supporters other than Local 843 members passed out Carey literature and campaign buttons at the Los Angeles Anheuser-Busch location. At the same time, Giacumbo and other members of Local 843 were distributing literature opposing the proposed contract. Giacumbo admits that during the period Carey was at the plant site, he and other local 843 members urged their fellow IBT members to "vote no for the contract and yes for Carey." They also wore Ron Carey buttons while distributing literature.

During the afternoon March 6, Giacumbo travelled to the Fairfield plant location. Ron Carey was not present in Fairfield. One of the Local 843 members accompanying Giacumbo, Greg Drucker, claims that Giacumbo as well as Local 843 members Al Hadley, Willie R. Strange and John Petrowski passed out buttons and literature supporting Carey's campaign while at the Fairfield plant. All deny doing so. Drucker is a personal friend of the protestor Del Pizzo. The Election Officer investigation did not find any IBT member employed at Fairfield who supported Drucker's statement.

A campaign rally was conducted on behalf of Ron Carey in the late afternoon of March 6, 1991 in Vickersville, California. Giacumbo claims that he was unaware of this scheduled campaign event prior to his arrival in California. Giacumbo, who is a fervent Carey supporter and nominated Vice President candidate as part of the Carey Slate, and other Local 843 members went to the rally. Giacumbo made a short speech at the rally supporting Carey.

At or around the time that Giacumbo and other members of Local 843 were in California, a two-sided leaflet containing on one side an announcement of the March 6, 1991 Carey rally and on the other a letter signed by Giacumbo opposing the proposed contract between Anheuser-Busch and the IBT was being distributed. However, the evidence shows that this leaflet was prepared by Chris Schweitzer, a member of Local 896, a California Local which includes members employed by Anheuser-Busch, at her own expense. Schweitzer was at that time a candidate for delegate to the 1991

Mr Carlo L Del Pizzo
Page 4

International Convention from Local 896 and was seeking election as a Carey supporter. The evidence demonstrates that no Union funds, nor the funds of Local 896, Local 843 nor any other IBT body, were spent to prepare and distribute the leaflets. Moreover, there is no evidence that any member of Local 843 distributed such leaflets during the period of time they were in California.

Giacumbo and the other members of Local 843 who traveled to California spent a total of 48 hours in that state. They stayed at the Valley Hilton Hotel. There is no evidence that Carey or any of his supporters who traveled with him for the Vickersville rally stayed at the Valley Hilton. While at the Valley Hilton, the Local 843 members hosted an "open house," with an open bar, for IBT members. The purpose of the open house was to discuss the proposed collective bargaining agreement. Carey did not attend this event, there is no evidence that there was any electoral campaigning during the open house.

Article VIII, § 10 (c) of the *Rules* provides

Union funds, facilities, equipment, stationery, etc may not be used to assist in campaigning unless the candidate reimburses the Union for such costs and such goods and services are equally available to all candidates and all candidates are notified in advance of the availability of such goods and services.

Article VIII, § 10 (b) further provides

All union officers and employees, if 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. However, such campaigning must not involve the expenditure of Union funds. Accordingly, members, officers and employees of the Union may not campaign on time that is paid for by the Union. Campaigning incidental to regular Union business is not, however, violative of this section. Further, campaigning during paid vacation, paid lunch hours or breaks, or similar paid time off is also not violative of this section.

The evidence establishes that the members of Local 843, including Giacumbo and Heat, were engaged in Union business when they traveled to the various Anheuser-Busch sites. During all such trips, and at all such sites, they undertook to convince their fellow IBT members to vote against the proposed collective bargaining agreement between Anheuser-Busch and the IBT. Activity with respect to the ratification of a proposed collective bargaining agreement is clearly Union activity.

Mr Carlo L Del Pizzo
Page 5

No evidence was uncovered in the extensive investigation conducted by the Election Officer indicating that the purpose of these trips was other than to urge defeat of the proposed collective bargaining agreement. To the extent that Giacumbo, Heat or any other Local 843 member engaged in campaign activities, such as distributing Carey literature - assuming Drucker's statements are credited, urging support for Carey or attending or speaking at the Carey rally, such activity was incidental to their Union business, i.e. to their attempt to defeat ratification of the proposed collective bargaining agreement. Campaign activity which is incidental to the conduct of regular Union business, even if conducted during time paid for by the Union, is permitted under the *Rules*. Further, Union funds may be utilized to pay the expenses of a trip undertaken for Union business even if incidental campaign activity occurs during the period of travel. See Election Office Case No P-107-LU576-CSF, affirmed 91-Elec App -60

Under the *Rules*, all Union members, including Union officers and employees retain the right to participate in campaign activities, including the right to openly support any candidate. Thus Union members, including officers, have the right to wear buttons, hats, shirts and the like proclaiming their political campaign position, even during work time. See Republic Aviation Corporation v NLRB 324 US 793 (1945), Mack's Supermarkets, Inc. 288 NLRB No 123 (1988), Malta Construction Company 276 NLRB No 171 (1985), DeVillviss Company 102 NLRB No 133 (1953)

For all of these 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/mjv

cc Frederick B Lacey, Independent Administrator
Ed Ellis, Regional Coordinator