

OFFICE OF THE ELECTION OFFICER
% INTERNATIONAL BROTHERHOOD OF TEAMSTERS
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July 18, 1991

VIA UPS OVERNIGHT

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Re: Election Office Case No. P-762-IBT

Gentlemen and Ms. Davis:

A protest was filed with the Election Officer pursuant to Article XI of the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("Rules"). In that protest, the Committee to Elect Ron Carey ("Carey") alleges that the Rules were violated by Local Union 79 as a result of articles appearing in the February 1991 edition of the "Teamsters On Parade '79' News". Carey also alleges that the Rules were violated as a result of a meeting held by Local Union 79. The Election Officer's investigation of this protest revealed the following.

The "Teamsters On Parade '79' News" is a newsletter published by Local Union 79 three times a year. The newsletter is mailed to the membership of Local Union 79 via U.S. Mail bulk rate and to the principal officers of every Local Union affiliated with the Southern Conference of Teamsters. In addition the newsletter is mailed to the principal officers of two Local Unions outside of the Southern Conference, i.e. Local Unions 299 and 810, which have asked to be put on the mailing list.

The regular January edition of the newsletter was delayed until after the completion of the election of delegates and alternate delegates to the 1991 IBT International Convention. A slate of candidates, headed by Robert R. Cummins, the President and Business Manager of the Local Union prevailed in that election. The

newsletter was published and distributed in February, 1991.

On the first page of the February 1991 edition of the newsletter is column entitled "A Message From President Cummins". In that column, which takes up four fifths of the page, Mr. Cummins promotes his own candidacy for International Vice-President from the Southern Conference, and the candidacy of T.C. Stone.¹ The column also disparages the candidacies of other alleged groups of candidates for International Office in the IBT, e.g., "Carey's Durham's and Shea/Liguoris'". The newsletter also contains a one page article in a series entitled "The Enemy Within". The article, entitled "Unionbusters Take Control of Teamsters", contains an extensive discussion of certain allegations against Ron Carey and repeats the statements against Carey contained in the "Teamster Election News."

Also announced in the newsletter is an announcement of an "Open Forum" for members of Local Union 79. While the announcement states that participation in the meeting is limited to Local Union 79 members, it also invited the spokesperson or supporters of any candidate for International Officer in the IBT to attend and participate in the meeting. The meeting was scheduled to take place on May 18, 1991 and it requested members who wanted to address the meeting to contact the Local Union office no later than the close of business on May 10, 1991 so that the order of presentation could be arranged and equal time allocated to all who wanted to make presentations.

Article VIII, Section 7 of the *Rules* provides that, with certain exceptions not relevant here, "[n]o Union-financed publication or communication may be used to support or attack the candidacy of any person. . ." The Election Officer's **Advisory On Union Publications**, dated December 21, 1990, states that "any member who declares himself to be a candidate must be considered to be a candidate". The **Advisory** goes on to state that "[p]rinting unfavorable articles. . . about a particular candidate also constitutes impermissible support." Finally, the **Advisory** states that "[t]o the extent that candidates are aligned, whether formally as members of a slate or informally, the Election Officer will review published materials with respect to all such candidates as a whole."

In the instant case, the campaign content of the "Message from President Cummins" is clear on its face. The article supports the candidacy of Mr. Cummins and T.C. Stone and disparages the candidacy of the slates headed by Ron Carey, R.V. Durham and Walter Shea.² In addition, the article in the "enemy within" series, i.e.

¹Mr. Stone has disavowed any connection to Mr. Cummins and has specifically stated that his campaign for Vice President is separate and unlinked to Mr. Cummins' campaign. I find this disavowal creditable and find that Mr. Stone had no foreknowledge of and did not give approval to the articles in the Local 79 newsletter.

²See footnote 1 above.

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"Unionbusters Take Control of Teamsters", parrots the charges against Ron Carey contained in the Teamster Election News and elsewhere disseminated as part of various campaign statements against Mr. Carey.

The February edition of the "Teamsters On Parade '79' News", violates the prohibitions in the *Rules* regarding the use of union publications for campaign purposes. The "Open Forum" announced in the newsletter does not violate the *Rules*. The meeting, if fairly conducted, and there is no allegation that it was not so conducted, is not violative of the *Rules* because it limits participation to members of the Local Union.

The Election Officer hereby order the following remedy for the violation of the *Rules* concerning the publication of the "Teamsters On Parade '79' News":

1. Local Union 79 shall publish an edition of the "Teamsters On Parade '79' News" between August and October, 1991. That edition of the newsletter shall be distributed in the same manner and to the same persons as was the February, 1991 edition. In that edition the Local Union shall permit any nominated candidate for International Vice President from the Southern Conference a one-eighth page campaign statement prepared by the candidate. In addition, nominated candidate for General President shall also be permitted a one quarter-page statement. The campaign material may not include pictures. Any slate formed in accordance with Article VII, § 1 of the *Rules* shall be permitted to combine the space of its members. This opportunity to campaign shall not be afforded to Mr. Cummins, who prepared the February, 1991 edition of the newsletter and the article favorable to his campaign.
2. At least 30 days prior to the date by which the candidates must submit their statements in order for such statements to be included in the newsletter, the Secretary-Treasurer of Local Union 79 shall inform the appropriate nominated candidates, with a copy of such notice to the Election Officer, of the anticipated date of publication, the date for submission of their material and the size of one-eighth or one quarter page of the newsletter. All material submitted must be camera-ready.
3. For each candidate who submits material for publication, the Election Officer shall be provided a copy of the edition of the "Teamsters On Parade '79' News" upon the publication of such newsletter.
4. The Secretary-Treasurer of Local Union 79 shall file an affidavit with the Election Officer, within 10 days after the publication of the edition of the newsletter containing the campaign material, setting forth the Local Union's compliance with this order.

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,

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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, IBT
Don Williams, Regional Coordinator
All Nominated Candidates for Southern Vice President