

OFFICE OF THE ELECTION OFFICER
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August 9, 1991

VIA UPS OVERNIGHT

Weldon Mathis
General Secretary-Treasurer
International Brotherhood of Teamsters
25 Louisiana Ave., NW
Washington, D.C. 20001

R. V. Durham
Beins, Axelrod, Osborne
& Mooney
2033 K St., NW
Suite 300
Washington, D.C. 20006-1002

Patrick Kelly
P.O. Box 09177
Chicago, IL 60609

Walter Shea
c/o Robert Baptiste
1919 Pennsylvania Ave., NW
Suite 505
Washington, D.C. 20006

Richard Hendershot
28 Park Avenue
Bayshore, NY 11706

Jim Balisle
Convention Services Manager
Walt Disney Dolphin Hotel
1500 EPCOT Resort Boulevard
Lake Buena Vista, FL 32830

Re: Election Office Case No. P-806-IBT

Gentlemen:

An election protest was filed pursuant to Article XI, § 1 of the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("Rules"). The protest was filed by Patrick Kelly, a representative of the Shea-Liguorotis campaign. In his protest, Mr. Kelly alleges that Weldon Mathis, the General Secretary-Treasurer of the IBT, directed certain employees of the Dolphin Hotel, site of the 1991 IBT Convention, to destroy campaign signs and banners of the Shea-Liguorotis and R. V. Durham Unity Team campaigns.¹ The investigation of this protest was conducted by

¹The Election Officer has contacted the R. V. Durham campaign and has been advised that, although signs from the Durham campaign were also destroyed, the Durham campaign is not interested in pursuing a protest with respect to the matter.

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John Sullivan, an attorney working in the Washington, D.C. Election Office, and Hank Murray, the Convention Coordinator for the Election Office. The investigation disclosed the following facts.

Patrick Kelly is an active supporter of the Shea-Ligurotis candidacies for IBT International office and attended the 1991 IBT International Union Convention in Orlando. Mr. Kelly worked closely with the Shea-Ligurotis campaign at the Convention and was active in distributing and collecting campaign literature and signs among Shea-Ligurotis supporters. Mr. Kelly worked under the direction of Richard Hendershot, who was also an active supporter of the Shea-Ligurotis ticket. Mr. Hendershot is a business agent from Local 237, and was a duly elected delegate from Local 237. Together Mr. Kelly and Mr. Hendershot coordinated the distribution, posting and collection of campaign materials throughout the week of the Convention.

On Sunday, June 23, 1991, Jim Balisle, Convention Services Manager at the Dolphin Hotel, advised representatives of the Ron Carey and R. V. Durham campaigns and Mr. Hendershot from the Shea-Ligurotis campaign, that all signs and banners posted in the hallways, stairwells and columns of the Dolphin Hotel must be removed pursuant to hotel policy. Representatives from all three campaigns expressed objections concerning the hotel's policy and attempted to persuade Mr. Balisle to adopt a more liberal posting policy. Upon reconsideration of the matter, Mr. Balisle acquiesced and advised Mr. Hendershot and the other campaign representatives that the hotel would permit candidates and their supporters to post signs in the hotel's hallways and stairway areas.

At the conclusion of the first day of the Convention proceedings, Monday, June 24, 1991, Mr. Hendershot and Mr. Kelly began looking for areas in the hotel to store the Shea-Ligurotis campaign signs and banners. Mr. Hendershot stated that the Shea-Ligurotis campaign placed some of their signs on the Convention floor and in the corners and stairwells near the Exhibit Hall and Convention floor area.

On Tuesday morning, June 25, 1991, Mr. Balisle informed Mr. Hendershot that the campaigns could not store signs and banners in the stairwells and hallways because such storage created a potential fire hazard. Mr. Hendershot states that Mr. Balisle instead told him that the campaigns could put their signs in the Convention Center room called Europe 3 at the end of the day and could store their signs in Europe 3 throughout the night. Mr. Hendershot states that Mr. Balisle told him that Europe 3 was rented by the IBT, but that to the best of his knowledge the IBT was not using the room in the evenings. The investigation established that Europe 3 was in fact rented by the IBT for the purposes of permitting delegates, alternate delegates and guests to view the Convention on a large monitor television screen.

On Tuesday evening, following Mr. Hendershot's conversation with Mr. Balisle, Mr. Kelly and Mr. Hendershot contacted hotel security to request access to Europe 3. Hotel security personnel unlocked the doors and directed the Shea-Ligurotis people to place their signs in the room. After all the signs and banners had been placed in the

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room, hotel security personnel locked the door. The investigation disclosed that the R. V. Durham campaign also stored signs and banners in Europe 3 on the night of Tuesday, June 25.

On Wednesday morning, June 26, at approximately 6:30 a.m., the Shea-Liguorotis supporters contacted hotel security and requested that security unlock the doors and permit them to go into Europe 3 to pick up their campaign literature. Hotel security accompanied the Shea-Liguorotis to Europe 3 and unlocked the room and permitted them to remove their campaign materials.

The Shea-Liguorotis supporters followed the same storage procedure on Wednesday evening, June 26. Mr. Kelly and Mr. Hendershot again contacted hotel security and hotel security unlocked the doors to Europe 3 and again permitted them to place their campaign material there. Hotel security again locked the door once all the signs and materials had been placed in the room.

On Thursday, June 27, the Shea-Liguorotis people again contacted hotel security and were again advised to bring the campaign signs to Europe 3. Mr. Hendershot also states that on Thursday evening, Mr. Balisle observed Mr. Hendershot collecting signs and offered to send a bellhop to help him. Mr. Hendershot readily agreed to the further assistance of a bellhop and accompanied the bellhop to Europe 3, where the bellhop placed the signs in a neat pile. Mr. Hendershot explained that there were approximately 2,500 signs placed in the room. Mr. Hendershot states that the Shea-Liguorotis campaign stored more signs on Thursday night than had been stored the previous nights due to the fact that more signs were used on the Convention floor on Thursday. (Demonstrations occurred on the Convention floor that day after the nominations for General President and General Secretary-Treasurer).

Later that evening, Mr. Balisle contacted Hank Murray, the Election Officer representative responsible for coordination between the Election Officer and the Dolphin Hotel. Mr. Balisle informed Mr. Murray that the hotel wished to remove all of the signs which had been placed in Europe 3. Both the Shea-Liguorotis campaign and the Durham campaign had placed signs in Europe 3 on Thursday evening. Mr. Murray informed Mr. Balisle that the Election Officer had repeatedly made it clear that he would not exercise jurisdiction with respect to the hotel's policy concerning the posting and storage of campaign material. In short, Mr. Murray informed Mr. Balisle that "it's your hotel;" as long as the hotel did not discriminate in favor of or against any particular candidate, the Election Office would exercise no jurisdiction with respect to the matter. In the early hours of Friday morning, Dolphin Hotel security and maintenance employees removed all the campaign literature which had been stored in Europe 3 and placed the material in the trash compactor.

On Friday morning, June 28, 1991, at approximately 6:30 a.m., Mr. Hendershot went to Europe 3 and discovered that all of the campaign signs from both the Shea-Liguorotis as well as the R. V. Durham campaign had been removed. At that point, Mr. Hendershot and Mr. Kelly began to search for signs and discovered that the materials

had been destroyed in the trash compactor.

Mr. Hendershot and Mr. Kelly then contacted Mr. Balisle. Kelly states that Balisle told him that "the man with the gavel" had told him to destroy the signs.² The Election Officer's investigation revealed that Mr. Balisle did not receive any instructions or orders from anyone in the IBT or the Election Office to remove the signs. As Mr. Balisle stated, "I guess that my people screwed up by throwing everything away."

The Election Officer in his investigation determined that Mr. Mathis had no involvement with the destruction of any campaign signs utilized by either the Shea-Ligurotis or R. V. Durham campaigns. Furthermore, Mr. Mathis did not advise any candidates or their supporters that any campaign literature could be stored safely in any of the hotel's facilities, including Europe 3 and thus had no responsibility for insuring their safe storage in that room. Mr. Mathis specifically did not direct any hotel employees to destroy any campaign literature either inside Europe 3 or in any other area of the Dolphin Hotel.

Conclusion

The investigation did not reveal any evidence indicating that either the IBT General Secretary-Treasurer or any other IBT representative ordered the removal of the campaign signs from Europe 3. Rather, the facts disclosed pursuant to the Election Officer's investigation established that the hotel's decision to remove and discard the signs was an independent one. The hotel did not consult with Mr. Mathis or the IBT prior to removing the materials. As Mr. Balisle himself admitted, the hotel acted independently in destroying the signs.

Mr. Balisle's statements directly contradict the contention of Mr. Kelly that the signs were destroyed on instructions of Mr. Mathis as well as Mr. Kelly's statement that Mr. Balisle said that he was simply "following the directions of the man with the gavel." Based on his investigation, and the facts disclosed by his investigation, the Election Officer cannot, and does not, credit Mr. Kelly's testimony.

The facts clearly indicate that the Dolphin Hotel, and not the IBT nor the Election Officer, was responsible for establishing the rules with respect to the posting and storage of campaign literature. Indeed, from the very first day of the Convention, Mr. Kelly and Mr. Hendershot spoke directly to Mr. Balisle, and not to IBT officers or Election Officer representatives, about the posting and/or storage of campaign literature.

In addition, the Election Officer advised all candidates that, absent evidence of discrimination as to a particular candidate, the Election Officer would not regulate the hotel's policies with respect to the posting and storage of campaign literature other than on the Convention floor and in the voting and exhibit areas of the Convention Center.

²Mr. Kelly maintains that Balisle's reference was to Mr. Mathis because Mr. Mathis had presided over the 1991 Convention proceedings and physically held the gavel.

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The Election Officer advised all candidates that all questions pertaining to the storage of campaign literature should be directed to the Dolphin Hotel, and not the Election Officer or the IBT. Thus, Mr. Kelly and Mr. Hendershot knew or should have known that the campaign itself was responsible for any storage arrangements made with the Dolphin Hotel.

The investigation did not disclose any evidence of discrimination between candidates for International union office. All candidates were permitted to store their campaign signs in Europe 3. All campaign materials placed in Europe 3 on Thursday evening, June 27, 1991, were removed and destroyed. There is no evidence to support the claim that the IBT General Secretary-Treasurer or any other IBT officer or representative ordered the destruction of the signs. Accordingly, the Election Officer concludes that the protest filed by Mr. Kelly does not constitute a violation of the *Rules*. Accordingly, 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

Ron Carey
c/o Richard Gilberg, Esq.
330 West 42nd St.
New York, New York 10036