



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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September 6, 1991

**VIA UPS OVERNIGHT**

Ron Carey  
c/o Susan Davis, Esq.  
Cohen, Weiss & Simon  
330 West 42nd Street  
New York, NY 10036-6901

T.C. Stone  
Secretary-Treasurer  
IBT Local Union 745  
1007 Jonelle Street  
Dallas, TX 75217

Yellow Freight System, INC.  
4500 Irving Blvd.  
Dallas, TX 75247

Roadway Express  
200 N. Beltline  
Irving, TX 95061

**Re: Election Office Case No. P-851-LU745-SOU**

Gentlemen and Ms. Davis:

A protest was filed with the Election Office pursuant to Article XI of the Rules for the IBT International Union Delegate and Officer Election, revised August 1, 1990 ("Election Rules"). The protest, filed on behalf of the Committee to Election Ron Carey ("Carey"), alleges that the Election Rules were violated as a result of the exclusion of IBT members from the property of two employers, Yellow Freight and Roadway Express. The IBT members involved are not employed by either Yellow Freight or Roadway Express and sought access to their facilities for the purpose of campaigning. Carey also alleges that these employers were engaged in a conspiracy with T.C. Stone, Secretary-Treasurer of Local Union 745 and nominated candidate for IBT Vice President, to violate the Election Rules. The Election Officer's investigation revealed the following.

On August 6, 1991, supporters of Ron Carey attempted to gain access to the employee parking lot at the Yellow Freight facility in Dallas, Texas. None of the Carey supporters, who included nominated candidates for International Vice President, are employed by Yellow Freight at the Dallas facility. After initially stating that no campaigning was permitted in the parking lot a security guard told the Carey supporters that they could campaign in the lot. After the IBT members entered the lot and started to engage in campaign activity, they were heckled by T.C. Stone supporters and told by

these fellow IBT members that this "was T.C. Stone country" and that they could not campaign on company property.<sup>1</sup> The security guard then asked the Carey supporters to leave the parking lot.

The management of Yellow Freight has informed the Election Officer that, consistent with the Election Officer's position with respect to the rights of IBT members to engage in campaign activity on the property of companies employing IBT members, non-employee IBT members have a right of access to the employee parking lot at the Dallas terminal for the purpose of campaigning. Such campaigning will be permitted in an area approximately 100' long and 30'-35' wide adjacent to the entrance of the two entrances to the parking lot. In the Election Officer's judgment, this area permits non-employees effective access for campaign purposes and is consistent with the requirements of the Election Rules.

The Election Officer found no evidence of a conspiracy between Yellow Freight and T.C. Stone. The security guard at the Yellow Freight Dallas facility was apparently confused about the company policy concerning campaign access by non-employee IBT members. He initially stated that no access would be permitted, then stated access would be permitted to the parking lot and then asked the Carey supporters to leave.

The evidence does not support the allegation of the protest that the security guard's request that the Carey supporters leave the premises was a result of instructions by Local Union 745. The security guard's only communications were with managerial officials of Yellow Freight; there is no evidence that such officials had any communication with Local Union 745. Further the Election Office's review of the video tape of the incident, prepared by the Carey supporters, demonstrates that the security guard merely asked that these members leave the property. His statements included no references to Local Union 745, or to its Secretary-Treasurer and nominated International Union Vice-President candidate T.C. Stone. Given Yellow Freight's clarification of its policy regarding campaign access to the parking lot at its Dallas facility the Election Officer is confident that the access problem will not be repeated.

The protest also alleges that Carey supporters were denied access to the Roadway Express facility in Irving, Texas on August 6. The protest alleges that the Carey supporters were informed by a "Roadway representative that T.C. Stone was the only candidate permitted to campaign in this area". The Election Officer's investigation revealed that Carey supporters entered the employee parking lot and engaged in campaigning for several hours. During the period that they were in the lot, the Carey

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<sup>1</sup>It should be emphasized that "heckling", unaccompanied by violence or threats of violence, is not violative of the Election Rules. No threats of violence or violence occurred here.

supporters were approached by IBT members employed at the facility and told that they could only campaign in a limited area of the parking lot and that they would be liable for any damage to cars parked in the lot. No statements were made by representatives of Roadway Express to the Carey supporters regarding campaigning in the parking lot. According to the Terminal Manager, the Roadway did have a policy of limiting campaigning to a certain area of the employee parking lot at its Irving facility but now permits campaigning anywhere in the employee parking lot. Carey supporters contacted Roadway management officials at the Irving facility and requested access to the driver break rooms inside the facility. Such access was denied.

As with the Yellow Freight incident, the Election Officer finds no evidence of a conspiracy between Roadway Express and T.C. Stone to violate the rights of IBT members. In the Roadway case, the Carey supporters were heckled and given incorrect information by IBT members who apparently supported T.C. Stone. Despite this conduct, the Carey supporters engaged in campaign activities in the employee parking lot before they voluntarily decided to leave. At no time were they told to leave by Roadway officials or any officer of the Local.

The denial by Roadway management of a request by the Carey supporters to enter the facility to campaign in non-work areas is not violative of the Election Rules. Under the Election Rules employees who are on the property of their employer or a third party for business purposes, e.g. they are on duty or making a delivery, have the right to engage in campaigning in non-work areas during non-work periods, e.g. in a drivers room during a break. Non-employees, or off-duty employees, do not have a right, absent a prior practice to the contrary, under the Election Rules to enter employer facilities to engage in campaigning in non-work areas within those facilities. The protest does not allege and the Election Officer does not find that Roadway has previously permitted IBT members not employed by it access to the interior of its Irving, Texas facility.

As more fully described above, Yellow Freight and Roadway Express have both stated that they will permit access to their respective facilities in Dallas and Irving, Texas to IBT members not employed at those facilities. The access that both companies indicated they will afford is consistent with the requirements of Article VIII 10(d) of the *Rules*. For these reasons the instant protest is considered **Resolved**.

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

Ron Carey  
September 6, 1991  
Page 4

& 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  
Election Officer

MHH/pjm

cc: Frederick B. Lacey, Independent Administrator, IBT  
Larry R. Daves, Regional Coordinator  
Jacqueline A. Schoonheim, Adjunct Regional Coordinator