

OFFICE OF THE ELECTION OFFICER  
% INTERNATIONAL BROTHERHOOD OF TEAMSTERS  
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Michael H. Holland  
Election Officer

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October 11, 1991

**VIA UPS OVERNIGHT**

Leroy Ellis  
18807 Oakwood Ave.  
Country Club Hills, Il 60478

Robert T. Simpson, Jr.  
President  
IBT Local Union 743  
300 S. Ashland Ave.  
Chicago, Il 60607

Edward "Doc" James  
c/o IBT Local Union 142  
1300 Clark Road  
Gary, IN 46404

**Re: Election Office Case No. P-906-LU743-CHI**

Gentlemen:

A protest was filed pursuant to the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("Rules"). The protester is Leroy Ellis, who is a candidate for International Vice President from the Central States Conference on the Ron Carey Slate. He alleges that Mr. Edward "Doc" James, a candidate for Vice President on the opposing R. V. Durham Unity Team slate, was allowed to campaign at a meeting of Local 743 Union stewards while other candidates were not given the same opportunity.

The protest alleges that Mr. James campaigned at a steward's meeting of Local 743 that was held on August 27, 1991. The position of Local 743 is that its annual stewards meeting occurred on September 14, 1991, and that Mr. James did not attend the meeting. It conceded that Mr. James may have attended a "social gathering" on August 27, 1991.

The protest was investigated by Regional Coordinator Julie Hamos and Adjunct Regional Coordinator Deborah Schaaf. The investigation of the Regional Coordinator revealed that stewards from Local 743 received a notice on Local 743 stationery to attend an Area Stewards meeting at 5:00 p.m. on August 27, 1991. Some stewards took official Union business leave to attend the meeting. The meeting occurred at a restaurant and included drinks and dinner for around 75 stewards; all costs were paid by the Local. Mr. James attended the meeting, although he is not a member of Local Union 743. Prior to the service of dinner, Mr. James "worked" the room, introducing himself as a candidate for Vice President from the Central Conference and passing out

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literature for the R.V. Durham Unity Team slate. Mr. James did not address the stewards, although another member of Local 142 did so. Local 743 President Robert Simpson also spoke to the delegates about the candidates on the R. V. Durham slate. There was also a presentation by a lawyer from Asher, Gittler, Greenfield, Cohen & D'Alba about workers compensation.

The investigation also reveals that a seminar for Local 743 stewards was held at Teamster City on Ashland Street in Chicago on September 14, 1991. Mr. James was not present at the meeting.

~~The Rules provide in Article VIII, § 4 that all candidates and campaigns must be treated equally with respect to attendance at Local Union meetings and the right to engage in campaign activities at Local Union meetings.~~ If A stewards meeting is a Local Union meeting. The dinner on August 27, 1991, the invitation to which was on Local Union stationery and for which at least some stewards took Union business leave, was an official meeting of the Local. If a candidate who is not a member of the Local Union is permitted to attend a Local Union meeting, the same opportunity must be provided for all other candidates. Further, if any member of the Local Union engages in campaign activities on behalf of a particular candidate or slate of candidates during a Local Union meeting, representatives of other candidates or slates of candidates must be granted similar opportunities. Campaigning is permitted but if and only if the facility and opportunity to do so are "made equally available on the same basis to all candidates and members." *Rules*, Article VIII, § 10(c).

The evidence in this case clearly shows that the *Rules* have been violated. A candidate for International office, not a member of Local 743, was permitted to attend a Local 743 stewards meeting and engage in campaign activities on his own behalf and on behalf of his slate. No other candidate or representative of any other slate was given the same opportunity to utilize the August 27, 1991 stewards dinner/meeting to campaign. Campaign statements were made during the meeting on behalf of a particular slate of candidates while representatives of the other slates were not notified that they could use the August 27, 1991 dinner/meeting to talk about their respective slates.

Accordingly, the protest is GRANTED. To remedy the violation of the *Rules* and to provide the candidate slates competing with the R. V. Durham Unity Team slate with an opportunity to campaign among the stewards of Local Union 743 - to compensate these two slates for the campaign access previously provided to the R. V. Durham Unity Team slate - Local 743 shall mail to all its stewards campaign literature provided to it by the Ron Carey Slate and the Shea-Ligurotis Action Team slate. The literature shall be no greater than a single page, 8½" x 11", suitable for mailing as a tri-fold. The literature shall be provided to Local 743 by the Ron Carey Slate and the Shea-Ligurotis Action Team slate and shall be duplicated and mailed by Local 743 to all Local Union 743 stewards within seven days of the date the literature is provided to it by each of the two slates. Local 743 shall bear the costs of duplication and mailing. At the time the Carey and Shea slates provide Local 743 with the literature to be duplicated and mailed by Local Union 743, each slate shall simultaneously provide a copy of such

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literature to the Election Officer. Within three days after the date that Local 743 duplicates and mails the literature so provided to it by the slates, Local 743 shall submit an affidavit to the Election Officer demonstrating that the mailing has been accomplished.

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, IBT  
Julie Hamos, Regional Coordinator

P-906

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IN RE:	:	91 - Elec. App. - 203 (SA)
LEROY ELLIS	:	
and	:	DECISION OF THE
IBT LOCAL UNION 743	:	INDEPENDENT ADMINISTRATOR
	:	(On Motion For Reconsideration)

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This matter arises as a request for reconsideration of the Independent Administrator's decision in In Re: Leroy Ellis, 91 - Elec. App. - 203 (SA) (October 22, 1991). A hearing was held before me by way of teleconference at which the following persons were heard: John J. Sullivan and Barbara Hillman for the Election Officer; Julie Hamos, a Regional Coordinator; Marvin Gittler for IBT Local Union 743; Robert T. Simpson Jr., President of IBT Local 743; and Leroy Ellis, the Complainant.

While the Rules For The International Union Delegate And Officer Election ("Election Rules") do not provide for "reconsideration," the circumstances of this case are sufficiently unique to warrant further consideration.

In 91 - Elec. App. - 203, I affirmed the Election Officer's decision that Local 743 had violated the Election Rules by preferentially allowing Edward "Doc" James, a Vice Presidential candidate on the R.V. Durham Unity Team Slate, to campaign at a Local 743 stewards' meeting. Neither Mr. Gittler nor any other representative of Local Union 743 attended the October 18th hearing

before me at which the merits of that decision were considered. As I noted in 91 - Elec. App. - 203, Local 743 had received notice of the hearing, Mr. Gittler's office had been contacted by telephone on the morning of the hearing, and I was in possession of Mr. Gittler's written submission which detailed Local 743's position.

Mr. Gittler subsequently asserted that neither he nor Mr. Simpson had received notice of the hearing. However, a check of UPS records confirmed that the notice of hearing was hand delivered to Mr. Simpson's office on October 16, 1991, and that his receptionist Roberta Laws had signed the receipt acknowledging delivery. Apparently, Mr. Simpson's office had confused this hearing with another hearing which the Local had no interest in attending. From these facts it is evident that Local 743 received actual notice of the hearing and would ordinarily be charged with responsibility for participating. Nevertheless, in the interest of basic fairness, I have decided to consider the merits of the arguments presented by Local 743 at the "reconsideration" hearing.

In the original investigation, the Election Officer found that, prior to dinner at the meeting sponsored by Local 743 for its stewards, Mr. James "worked" the room, introducing himself as a candidate, passing out literature for his slate, and generally soliciting support for his candidacy. At the rehearing before me, Local 743 asserted that it had denied Mr. James' request to formally address the stewards as a group. It was further argued that Mr. James had not been observed campaigning before his request

was refused and that he did no campaigning afterwards. Local 743 suggested that Mr. James was merely "gladhanding" and it would have been "incivil" to prevent him from mixing with the crowd in this manner.

The argument that Mr. James' presence and conduct at the meeting reflected a "social reality" that Local 743 was powerless to address without being impolite is disingenuous. This same reality did not result in the presence of any of Mr. James' opponents at the stewards meeting. Moreover, one would have to be blind to the political reality to avoid noting that Local 743's officers, who appoint most of the stewards, are generally known to support the Durham slate. Indeed, Mr. Simpson himself, was elected as an International Trustee, running on the Durham ticket at the recent IBT Convention.


It is clear that the Durham supporters among Local 743's officers and/or stewards exploited a political connection with Mr. James, which enabled him to attend a meeting which he was not entitled to attend so that he could seek support for his candidacy. That this opportunity was not made equally available to rival candidates constitutes a violation of the Election Rules.

Finally, Local 743 suggests that campaign activity short of a formal address to the assembled members does not violate the Election Rules. This argument is meritless as the Election Rules clearly forbid Unions from granting unequal campaign opportunities such as that which occurred here. See, e.g., Election Rules,

Article VII, Section 10.c. It is undisputed that the Union paid for the dinner, that it mailed the invitations on its official stationery, and that some of the stewards were on paid leave for Union business at the time. That this use of Union resources benefits one candidate and not others violates both the letter and spirit of the Election Rules. See, also, Election Rules, Article VIII, Section 4.a.(2); and Article VIII, Section 10.b.(1) and (3).

As a final matter, I note that since Local 743's objections to the remedy were considered at the first hearing, there is no further need to revisit them here.

In sum, none of the arguments presented by Local 743 at the rehearing demonstrates that the original decision in this matter was wrong. Accordingly, the original decision is affirmed in all respects.



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Frederick B. Lacey  
Independent Administrator  
By: Stuart Alderoty, Designee

Dated: October 31, 1991