



OFFICE OF THE ELECTION OFFICER
% INTERNATIONAL BROTHERHOOD OF TEAMSTERS
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October 10, 1991

VIA UPS OVERNIGHT

Nathaniel Smith
116 Michigan Avenue, NE
#1-22
Washington, DC 20017

James Collins
President
IBT Local Union 730
2001 Rhode Island Avenue, NE
Washington, DC 20018

Re: Election Office Case No. P-917-LU730-MID

Gentlemen:

A protest was filed pursuant to the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("*Rules*") by Nathaniel Smith, a member of Local Union 730 and a certified delegate to the 1991 IBT International Union Convention from Local 730. In his protest, Mr. Smith complains about the conduct and content of the September 18, 1991 Local Union membership meeting and contends that such conduct and content violated the *Rules*. The protest was investigated by Regional Coordinator Grant Crandall.

I. Meeting Conduct

Local Union 730 conducted its regular monthly membership meeting on Wednesday, September 18, 1991. In the room where the meeting was conducted, against one wall, a table had been erected on which was displayed campaign literature and buttons for the R. V. Durham Unity Team Slate and Phil Feaster, a nominated candidate for Vice President from the Eastern Conference and a member of the R. V. Durham Unity Team slate. The materials were not distributed but were available for Local 730 members to take if they so desired. Mr. Smith contends that the Local's making available such materials for distribution violates the *Rules*, arguing that James Collins, President of Local 730, had stated that the meeting was not a campaign meeting. Mr. Smith urges the Election Officer to find that the *Rules* were violated and to remedy such violation by ordering that he be given the same opportunity and/or that the Local Union hall be made available for all nominated International Union officer candidates.

Mr. Collins contends that his erecting a table and placing thereon campaign materials does not constitute a violation of the *Rules*. The materials that were placed on the table were materials that had been provided to Local 730 by the various candidates. Neither the Local nor Mr. Collins had solicited the materials; Mr. Collins placed on the table all materials that the Local had received.

The underlying purpose of the March 14, 1989 Consent Order and the *Rules* is to encourage, not limit, participation in the 1991 IBT International officer election process. The *Rules* are not violated if a candidate or a slate of candidates asks the Local Union to distribute campaign materials. The distribution of such materials is an appropriate means of apprising Union members about the candidates and the issues on which they will be voting and is encouraged under the *Rules*. See Election Office Case No. P-512-IBT.

However, the *Rules* require that all candidates be treated equally. Article X, § 1(b)(3) provides that: "Use of Union equipment, stationery, facilities and personnel in connection with any campaign is prohibited unless the Union is compensated for such use by the candidate and unless all candidates are provided equal access to such goods and services." Article VIII, § 10(c) provides not only shall all candidates have equal access to Union funds, facilities and equipment, but "all candidates [must be] notified in advance of the availability of such goods and services." Article VIII, § 6(a)(1) of the *Rules* provides that "[e]ach candidate shall be permitted a reasonable opportunity, equal to that of any other candidate, to have his/her literature distributed by the Union..."

Accordingly, while Local 730 did not violate the *Rules* by making available to its members campaign literature and buttons provided it on an unsolicited basis by candidates or slates of candidates, it must advise all nominated candidates for IBT International Union office of the availability of their right to have any campaign material they provide to the Local similarly distributed by the Local. Within five days of the date of this decision, Local 730 shall in writing notify all nominated candidates for IBT International office, with copies to the Election Officer, of the right of each such candidate, or slate of candidates, to provide Local Union 730 with campaign literature, buttons or other materials.¹ The letter shall note that Local 730 shall distribute such material at all Local Union meetings by placing the material received on a table set up in the room where the meeting occurs. The letter should also notify all candidates of the date of all meetings of Local Union 730 through December 10, 1991. Local Union

¹ In lieu of notifying all nominated candidates individually, Local 730 may notify all candidates on the Ron Carey Slate by writing to Eddie Burke, 26 Bradford St., Main Font Door, Charleston, WV 25301, all candidates on the Durham Unity Team Slate by notifying Chris Scott, Durham Unity Team, 508 Third Street, N.E., Washington, D.C. 20003, and all candidates on the Shea-Ligurotis Action Team slate by notifying Jim Smith, c/o IBT Local Union 115, 2833 Cottman Ave., Philadelphia, Pennsylvania 19149.

730 shall distribute all material it receives from any candidates in the same way that it distributed the material of Mr. Feaster and the R. V. Durham Unity Team slate at its September 18, 1991 Local Union membership meeting.

II. Meeting Content

During the September 18, 1991 Local Union membership meeting, Mr. Smith alleged that an announcement was made to the membership that Local 730 endorsed the R. V. Durham Unity Team slate. The Election Officer investigation revealed, however, that no such announcement was made. During the meeting, Eula Cleveland, Recording Secretary for Local Union 730, read - in accordance with the prior practices of the Local Union - the minutes of the last meeting of the Local's executive board. The minutes reflected that the executive board voted to endorse the R.V. Durham Unity Team slate and did so endorse such slate.

All parties agree that Local Union 730 only makes endorsements after a vote of its membership. No vote of the Local 730 membership has been taken with respect to the 1991 IBT International officer election. The Election Officer's investigation found no probative evidence that it was ever stated, or otherwise communicated, that Local 730 endorsed any candidate for IBT International office with respect to the 1991 IBT International Union officer election.

The Election Officer notes that no such endorsement is appropriate under the *Rules*. IBT entities, including Local Unions, cannot as an entity endorse or support a particular candidate or slate of candidates. While all IBT members have the right to endorse and support the candidate(s) of their choosing, they do so as members of the IBT. *Rules*, Article VIII, §§ 10(a) and (b). An endorsement may constitute a contribution of something of value to a candidate or a candidate's campaign. See, eg., Election Office Case No. P-651-IBT, affirmed 91-Elec. App.-183 (SA). Since neither the IBT nor any subordinate body of the IBT may make contributions to any candidate for International office, *Rules*, Article X, §§ 1(b)(1) and (1)(b)(3), no IBT entity as an entity may endorse any candidate.

Similarly, a Local Union executive board may not as the executive board of the Local endorse any candidate or slate of candidates. IBT members, whether or not an officer or member of the executive board, do however have a right to endorse candidates and to note - for identification purposes only - the positions they hold in the IBT. See Advisory on Campaign Contributions and Disclosure, issued August 14, 1991, at page 5.

Accordingly, it was inappropriate for the Local Union 730 membership to be informed that the executive board of Local 730, as an executive board, endorsed any candidate or slate of candidates. To clarify any confusion, Eula Cleveland, as the Recording Secretary of Local 730, shall read the following to the members at the next Local 730 Local Union membership meeting:

Nathaniel Smith
Page 4

At last month's Local Union membership meeting, I read the minutes of the Local's executive board meeting, which reflected that the Local's executive board had endorsed the R. V. Durham Unity Team slate members. The Local's executive board may not endorse any candidate or slate of candidates competing in the 1991 IBT International Union officer election. While the individual members of the executive board may have endorsed a particular candidate or slate of candidates, the executive board as the executive board of Local 730 cannot endorse any candidate or slate of candidates.

Within five days of the next Local Union membership meeting of Local 730, Ms. Cleveland shall file an affidavit with the Election Officer demonstrating that she duly read the foregoing to the members at such meeting.

The protest is decided in accordance with the foregoing.

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
Grant Crandall, Regional Coordinator

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Nathaniel Smith
Page 5

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