



OFFICE OF THE ELECTION OFFICER
% INTERNATIONAL BROTHERHOOD OF TEAMSTERS
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Election Officer

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October 11, 1991

VIA UPS OVERNIGHT

Anthony Veltry
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Rego Park, New York 11374

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Public Citizens Litigation Group
Suite 700
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Washington, D.C. 20036

Dan Kane
c/o IBT Local Union 111
50 Broad Street
New York, New York 10004

Re: Election Office Case No. P-928-IBT

Gentlemen:

A protest was filed pursuant to the Rules for the IBT International Union Delegate and Officer Election, revised August 1, 1990 ("Rules") by Paul Levy on behalf of Anthony Veltry, a member of IBT Local 810. The protest contends that Union and employer funds were utilized to support a fundraising event held on September 12, 1991 in New York City on behalf of the campaign of Dan Kane, a candidate for International Vice President for the Eastern Conference and/or members of his slate, the R. V. Durham Unity Team.

Mr. Levy, on behalf of Mr. Veltry, contends that an organization named "Teamsters for Kane" held a fundraising event for the campaign on September 12, 1991 at the offices of a foundation called the Labor Research Association (LRA). Mr. Levy alleges that the fundraiser was promoted by sending a flyer to the mailing list of LRA. He states that the flyer was meant to imply and was in fact an endorsement of the Kane campaign by the LRA, a foundation and an employer. Further, Mr. Levy contends that since the mailing list is the property of an employer and foundation, its use by the Kane campaign to promote a fundraiser

constitutes the receipt by that campaign of an impermissible campaign contribution. Mr. Levy also alleges that the majority of LRA's members are labor unions who would be prohibited, with certain exceptions not relevant here, from making monetary contributions to the campaign of Mr. Kane while the flyer did not contain an appropriate disclaimer. Finally, Mr. Levy contends that Union and employer funds were used to promote the event; he claims that telephone calls were made during business hours from Local 111 by Local 111 personnel to solicit funds and attendance at the fundraiser.

The protest was investigated by the Regional Coordinator Amy Gladstein. LRA is a non-profit corporation, an entity similar to a trust or foundation, and an employer within the meaning of the Rules. Article X, §1 of the Rules specifically provides that no employer, trust, foundation or similar entity shall be permitted to contribute anything to any campaign except as provided in Article X, §1b(2). There is no dispute that LRA is an employer and an entity similar to a trust or foundation. The issue remains as to whether LRA contributed anything to the campaign of Mr. Kane. For the reasons set forth below, the Election Officer determines that LRA did not make any impermissible contributions.

In the first instance, the flyer used to solicit attendance at the fundraiser is not an endorsement by LRA. The flyer distributed makes absolutely no mention of LRA as a sponsor, organizer or supporter of the fundraising event. The only mention of LRA is in connection with the location of the fundraiser. The fundraiser was held at LRA's offices and accordingly the solicitation lists its name and address as the situs of the event. The fact that LRA permitted the use of its premises, assuming appropriate compensation to it for such use, is not an endorsement or a campaign contribution in violation of the *Rules*.

The investigation revealed that LRA has submitted an invoice, dated September 23, 1991 and addressed to Dan Kane for V.P. at the post office box noted on the flyer, which includes a rental fee for the room in which the fundraiser was held in the amount of \$50.00. ^{1/} The Election Officer's investigation determined that \$50.00 is an appropriate charge for the accommodation provided.

^{1/} The invoice also includes a charge of \$250.00 for rental of space and equipment. Mr. Kane's campaign rents a small office, a computer and a telephone from LRA. The rental rate is reasonable for this space and equipment. Long distance charges are billed separately to the campaign as demonstrated by such charges on the invoice.

Disclaimer of Employer Union and other Improper Contributions, issued September 5, 1990 ("Memorandum"), nor the Advisory on Campaign Contributions and Disclosure, issued August 14, 1991, ("Advisory") require a specific disclaimer, both Article X, 1(c) of the Rules, the Memorandum and the Advisory strongly urge that the disclaimer, clearly defining prohibited and permitted contributions, be placed on all fundraising mailings. As the Advisory notes such disclaimer should state that not only employers but representatives of employers, unions, charitable organizations, trusts, foundations or other similar entities are not permitted to contribute to any campaign. The disclaimer on the flyer advertising Mr. Kane's fundraiser is clearly lacking in that regard.

However, as the Memorandum states, failure to include an appropriate disclaimer is not in and of itself is not a violation of the Rules. Rather the Election Officer will take into consideration the lack of a proper disclaimer in determining the appropriate remedy should contribution violations be found.

Accordingly, it must be determined whether Mr. Kane or his campaign received or receipted improper campaign contributions resulting from the September, 1991 fundraising solicitation and/or event. The Election Officer has reviewed contributions received by Mr. Kane's campaign as a result of the fundraising solicitation. Twenty-six individuals contributed to the fundraiser. In addition, one Local Union also contributed. However, that check was returned by the Kane campaign prior to the filing of this protest. The Election Officer has investigated the 26 individual contributors to determine whether they, and each of them, can make campaign contributions under the Rules. The Election Officer has determined that only one contribution was received from an individual not eligible to make a contribution under the Rules. That individual is a representative of an employer as defined in the Advisory.

The remaining allegation raised by the protest, use of Union personnel and resources for the promotion of the fundraiser, is not supported by the evidence adduced during the investigation. All telephone calls urging support of the fundraiser were made by IBT members or others, not employers, on their own time and at Mr. Kane's campaign office not at Local 111. The campaign was charged for the phone and the phone service utilized. See Footnote 1, *supra*. Thus, the Election Officer does not find that any Union resources were utilized in connection with the fundraiser.

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For the reasons discussed above, the Election Officer determines that neither the solicitation for the fundraiser nor the fundraiser itself were the product of impermissible contributions by LRA or the Union. However, the campaign contribution received from one contributor was an impermissible contribution under the *Rules*. Although the disclaimer on the fundraiser was not as complete as the Advisory urges, the improper contribution was not received from a labor organization, trust or foundation -- the entities omitted on the disclaimer -- but rather from an employer -- the entity the disclaimer identified as being an improper contributor. The Election Officer finds that the return of such contribution is sufficient to remedy the violation found.

The Election Officer directs that such contribution, the contribution received from Joel Shufro, shall be returned within seven (7) days from the date of this letter and further directs that Dan Kane or a representative of his campaign submit an affidavit to the Election Officer within the same seven (7) day period demonstrating that this contribution has been returned to Mr. Shufro.

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

cc: Frederick B. Lacey, Independent Administrator

Amy Gladstein, Regional Coordinator

MHH/ca