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Election Officer

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October 14, 1991

VIA UPS OVERNIGHT

Gary L. Gregory
9601 Bakeway Dr.
Indianapolis, IN 46231

John N. Neal
President
Teamsters Local 135
1233 Shelby St.
Indianapolis, IN 46203

R. V. Durham
c/o Hugh J. Beins, Esquire
Beins, Axelrod, Osborne
& Mooney
2033 K St., NW
Suite 300
Washington, D.C. 20006-1002

943

Re: Election Office Case No. P--LU135-SCE

Gentlemen:

This is a protest filed pursuant to the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("*Rules*"). The protester, Gary Gregory, is a supporter of the Ron Carey Slate of candidates for International Union office. He alleges that the R.V. Durham Unity Team slate has used Union resources to set up a phone bank for its campaign. He further contends that Local 135 provided the phone numbers being used by the phone bank to call Local 135 members without making such Union resources available to other candidates or slates. The protest was investigated by Regional Coordinator Peggy A. Hillman and the Washington, D.C. staff of the Election Officer.

The R. V. Durham Unity Team has established phone banks to solicit support and campaign contributions. It is apparently also utilizing the phone banks for purposes of polling the IBT membership. The investigation revealed no evidence that any Union resources are being utilized with respect to the phone banks or that the phone numbers

of the IBT members being called were obtained by using resources of the Union not available to other International Union officer candidates.

R. V. Durham and the R. V. Durham Unity Team were provided with the names and addresses of all members of the IBT by the Election Officer. *Rules*, Article VIII, § 2(a); see also Advisory on Membership List Distribution to Accredited Candidates, issued August 23, 1990. The membership list so provided was arranged by Local Union. The list of the names and addresses of all IBT members, also arranged by Local Union, was provided by the Election Officer to all other nominated candidates for IBT International Union office.

The R. V. Durham Unity Team then contracted with Blaemire Communications to provide phone numbers for IBT members of selected Local Unions. Mr. Durham's campaign provided Blaemire with a copy of the membership list it obtained from the Election Officer. Blaemire, through the utilization of a national data bank of all listed and previously listed phone numbers matched, by computer, the names and addresses provided with the appropriate phone number. Blaemire added the phone number information to the data supplied it by the Durham campaign and transmitted the information to Clinton Communications, a Durham contractor who did the actual phone calling. The Election Officer uncovered no evidence that Blaemire received from R. V. Durham any information other than the name and address information supplied to that campaign by the Election Officer under and in accordance with Article VIII, § 2(a) of the *Rules*.

Clinton Communications, utilizing the information supplied by Blaemire, made the actual phone calls. The data which it used to make the phone calls was directly supplied by Blaemire. There is no evidence that any member or supporter of the R. V. Durham Unity Team, the IBT or any subordinate body of the IBT had access to the information supplied by Blaemire prior to the time it was received by Clinton. There is no evidence that any member or supporter of the R. V. Durham Unity Team slate, the IBT or any subordinate body of the IBT provided any telephone information to Clinton other than the information provided by Blaemire.

The R. V. Durham Unity Team has and is paying for the services of Blaemire Communications and Clinton Communications. There is no evidence that any other person or entity has or will make any payments to either Blaemire or Clinton. The evidence thus establishes that no Union resources are being utilized for the phone banks of the R. V. Durham Unity Team.

Mr. Gregory alleges, however, that he and four other members of Local 135, all of whom he contends have unlisted phone numbers, received phone calls through the phone bank. Since his and the other four members' phone numbers are unlisted, he contends that their numbers could not have been obtained by Blaemire Communications.

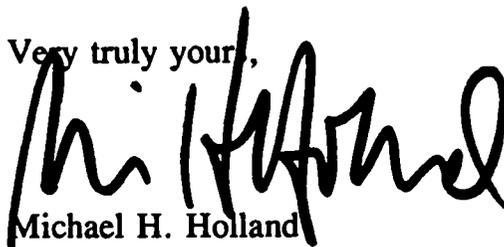
Gary L. Gregory
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He thus concludes that their having received calls demonstrates that Local 135 must have provided the phone numbers to Mr. Durham's campaign, utilizing a resource of the Local which has not been made available to other International Union officer candidates.

The Election Officer was able, however, to obtain phone numbers for three of the members identified by Mr. Gregory through use of the services of Indiana Bell Telephone Company. The Election Officer also notes that Blaemire's database consists not only of current but also outdated phone number information. To the extent that any of these five members ever had a listed phone number, Blaemire would be able to provide a phone number listing. Further, it is necessary to have only a surname and an address to provide a telephone listing "match." Accordingly, if any member with an unlisted phone number has a spouse or a child with a listed number, Blaemire would be able to provide an appropriate phone listing through use of its computer operations. Finally, and as noted with more detail above, the Election Officer investigation was unable to uncover any evidence that any phone numbers were supplied by Local Union 135, by any other IBT entity or by any officer or agent of Local 135 or any other IBT entity. For these reasons, 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
Peggy A. Hillman, Regional Coordinator

IN RE:	:	
	:	
GARY L. GREGORY	:	91 - Elec. App. - 209 (SA)
and	:	
R.V. DURHAM	:	DECISION OF THE
and	:	INDEPENDENT ADMINISTRATOR
IBT LOCAL UNION NO. 135	:	

This matter arises as an appeal from a decision of the Election Officer in Case No. P-⁹⁴³~~100~~-L135-SCE. A hearing was held before me by way of teleconference at which the following persons were heard: the Complainant, Gary Gregory; John J. Sullivan and Barbara Hillman, on behalf of the Election Officer; Peggy Hillman, a Regional Coordinator; Hugh Beins, on behalf of R.V. Durham; and Ed Fillenworth on behalf of Local 135. The Election Officer submitted a written Summary in accordance with Article XI, Section 1.a.(7) of the Rules for the IBT International Union Delegation and Officer Election ("Election Rules").

The Complainant, a member of Local 135 and a supporter of Ron Carey's candidacy for General President, claims that the R.V. Durham Unity Team Slate (the "Durham Unity Team") has used the resources of Local 135, specifically information regarding members' phone numbers, in establishing a phone bank for use in its campaign. It is also alleged that similar phone number information was not made available to Mr. Carey. See Election Rules, Article

X, Section 1.b.(3) (Use of Union resources in campaign is prohibited unless, inter alia, "all candidates are provided equal access to such goods and services.").

The Election Officer's investigation revealed that the Durham Unity Team periodically establishes phone banks to solicit support and financial contributions, and to poll the IBT membership. One of these phone banks resulted in calls to members of Local 135. Both the Durham Unity Team and the Local deny that the Local provided any phone numbers for use in the phone bank at issue. The Durham Unity Team explained that it gets phone numbers for use in all of its phone banks from outside commercial services that it retains. The Election Officer confirmed the Durham Unity Team's representations.

The Complainant maintains, however, that the Durham Unity Team must have had access to phone numbers other than those provided by the outside commercial services because five members of Local 135, including the Complainant himself, received phone calls from the Durham campaign even though their phone numbers are unlisted. The Complainant concludes, therefore, that the phone numbers could only have been obtained through the Local. As the Election Officer indicated in his Summary, however:

There are a number of ways in which unlisted numbers could have been obtained. [A commercial service's] data base of numbers includes outdated phone number information as well as current information, and thus could have included numbers that were available before they were removed from listing by their owners. Similarly, if any spouse or relative at the same address retained the phone number as a listed number, use of the