

OFFICE OF THE ELECTION OFFICER
% INTERNATIONAL BROTHERHOOD OF TEAMSTERS
25 Louisiana Avenue, NW
Washington, DC 20001
(202) 624-8778
1-800-828-6496
Fax (202) 624-8792

Chicago Office
% Cornfield and Feldman
343 South Dearborn Street
Chicago, IL 60604
(312) 922-2800

Michael H Holland
Election Officer

October 14, 1991

VIA UPS OVERNIGHT

Chris Scott
c/o R.V. Durham Unity Team
508 Third Street, N.E.
Washington, D.C. 20002

Teamsters for a Democratic Union
c/o Paul A. Levy, Esq.
Public Citizen Litigation Group
2000 P Street, N.W.
Suite 700
Washington, D.C. 20036

Re: Election Office Case No. P-965-IBT

Gentlemen:

A protest has been 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"). In his protest filed on behalf of the R.V. Durham Unity Team, Chris Scott alleges that the Election Rules were violated by Teamsters for a Democratic Union ("TDU") as a result of TDU's failure to invite members of the Durham Unity Team to the upcoming TDU convention and as a result of the alleged misstatement in a piece of TDU literature that such candidates, *inter alia*, had been invited to the convention. The Election Officer's investigation revealed the following.

TDU is a caucus of IBT members organized around a variety of issues of concern to its members and their fellow members of the IBT. TDU has endorsed the candidacy of Ron Carey for General President of the IBT, as well as the candidacy of members of his slate, and has actively campaigned on their behalf. TDU funds its campaign activities with contributions from IBT members. See, Election Office Case No. P-249-LU283-MGN, affirmed 91-Elec. App.-158 (SA).

The Election Rules require Unions affiliated with the IBT to provide equal access to all candidates to any meeting where campaigning is permitted or to any campaign forum sponsored by the Union. See, Article VIII, Section 4 of the Election Rules; Election Office Case Nos. P-326-LU572-CLA and P-333-JC42-CLA (failure to invite all candidates to Joint Council delegates meeting). However, this obligation does not extend to meetings of membership caucuses. A membership caucus may take a partisan political position; a membership caucus, unlike a Union entity, may expend funds (provided the funds are from sources permitted to make campaign contributions under the *Rules*) to support, or indeed disparage, a candidate for IBT International Office. The Election Officer has previously held that a membership caucus can exclude individuals from its meetings who are disruptive or who do not share its views or objectives. See, Election Office Case P-008-LU732-NYC and P-008-1-LU732-NYC, affirmed 90-ELEC. APP.-8(exclusion of Local Union officials from TDU meeting).

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Because the TDU has no obligation under the Election Rules to invite particular candidates or slates of candidates for International office to the TDU convention, or to permit such candidates to participate in that convention, the Election Officer concludes that the alleged failure to invite members of the Durham slate to the TDU convention is not violative of the Election Rules.

Mr. Scott also objects to a statement, contained in a TDU leaflet advertizing the convention, that all candidates for International office in the IBT were invited to the TDU convention. The Election Officer has on numerous occasions addressed claims that the Election Rules were violated as a result of statements made in campaign literature. In each case the Election Officer has concluded that the Election Rules do not authorize his censorship of campaign literature and that the only effective remedy for false, improper or defamatory speech is more speech. See, e.g., Election Office Case No. P-284-IBT. In the instant case, the Election Officer has not inquired whether the statement at issue, i.e., that all slates and candidates for International office have been invited to the TDU convention, is true or false because such determination is irrelevant to the resolution of the instant protest.

Because the instant protest fails to state a claim under the Election Rules, 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
Election Officer

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cc: Frederick B. Lacey, Independent Administrator

Ron Carey
c/o Richard Gilberg, Esquire
Cohen, Weiss & Simon
330 West 42nd Street
New York, NY 10036-6901

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

Walter Shea
c/o Robert Baptiste, Esquire
Baptiste & Wilder
1919 Pennsylvania Avenue, N.W.
Suite 505
Washington, D.C. 20006