

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

Michael H Holland
Election Officer

October 18, 1991

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

VIA UPS OVERNIGHT

Chris Scott
R. V. Durham Unity Team
508 Third Street, N.E.
Washington, D.C. 20003

James Howe
Secretary-Treasurer
IBT Local Union 1149
7272 Van Buren Road
Baldwinsville, NY 13027

Robert Henry
2 Braeside Road
Baldwinsville, New York 13027

Steve Richmond
2026 County Line Road
Phoenix, New York 13135

Re: Election Office Case No. P-967-LU1149-PGH

Gentlemen:

A protest was filed pursuant to the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("*Rules*") by Chris Scott on behalf of the R. V. Durham Unity Team slate. In his protest, Mr. Scott contends that Durham campaign literature posted on a bulletin board at the Anheuser Busch Baldwinsville, New York facility was removed from the bulletin board by Robert Henry, a member of Local Union 1149 and a supporter of the candidates, on the Ron Carey slate in violation of the *Rules*.

The protest investigation was conducted by Regional Coordinator William Kane and the Washington, D.C. office of the Election Officer and disclosed the following. The investigation identified four (4) witnesses to the incident: Steve Richmond, Robert Henry, Mike Kraiss and Hal Hanlon, all Local 1149 members and employees of Anheuser-Busch. Verified statements were taken from all four witnesses.

These statements reveal substantial conflicts as to material facts between the witnesses, with a major divergence being between the versions of Messrs. Richmond and Kraiss, on one side, and Messrs. Henry and Hanlon on the other. Messrs. Richmond and Kraiss support R. V. Durham for IBT General President and the members of his slate; Messrs. Henry and Hanlon are supporters of the Ron Carey slate. Analysis of all statements, however, reveals certain basic facts that are not disputed. These are that on Wednesday, October 9, 1991 at 11:30pm Robert Henry, a supporter of the Ron Carey slate, removed two pieces of Durham campaign literature from a bulletin board provided for Local

Union 1149 members by Anheuser Busch at its Baldwinsville, New York plant. Conflicts in the testimony center upon witnesses' different versions of Mr. Henry's subjective intention in removing the materials as well as the manner in which he did so. Messrs. Richmond and Kraus contend that the material was ripped and torn from the board. On the other hand, Messrs. Henry and Hanlon stated that the Durham material was covering up Carey material and it was removed only to allow Carey material to be viewed. It was Mr. Henry's statement that he originally intended to put the material he had removed back up on the board prior to being confronted by Mr. Richmond. He admitted that he failed to do so, explaining that after being accused by Mr. Richmond he kept it "for evidence".

The *Rules* safeguard the rights of all candidates to freely and fully exercise their political rights to campaign. Article VIII, §10(d) expressly prohibits any restrictions on candidates or members pre-existing rights "to solicit, support, distribute leaflets or literature . . . on employer or Union premises." It is violation of the *Rules* for anyone - - any Union officer, agent or member or any company official -- to remove properly posted campaign literature. Thus Mr. Henry violated the *Rules* by removing the Durham literature.¹

It is also, of course, a violation of the *Rules* to cover posted campaign materials with other material, including other campaign literature. Thus Mr. Henry, assuming as he says that Durham literature was posted over Carey literature, could have removed and reposted the Durham literature. He did not do so. Regardless of his motivation for not reposting the literature, his failure to do so after removing the Durham literature from the bulletin board violated the *Rules*.

The Election Officer investigation further revealed that properly posted campaign literature for both the Durham and Carey slates has been removed on a number of occasions in the past, albeit by persons unknown. All members are cautioned to avoid tampering with another member's campaign material. Such actions jeopardize the political rights of all candidates and members. The Election Officer notifies all parties that their actions will be closely scrutinized and severe sanctions imposed for future and further violations.

To remedy the violation found, the Election Officer directs Mr. Henry to sign the attached notice, personally duplicate a sufficient number so that the notice may be posted on all union boards at the Anheuser-Busch facility at Baldwinsville, New York, and provide the copies to Local 1149. Local 1149 shall within three (3) days thereafter, or within six (6) days of the date of this decision, post the notice on all Union bulletin

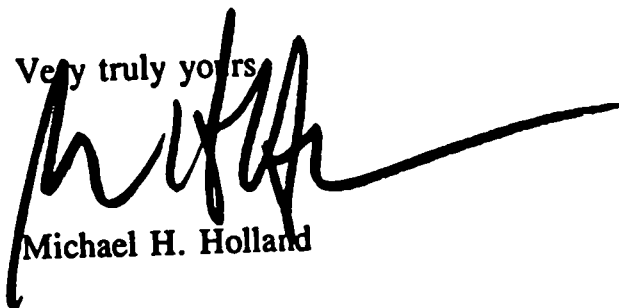
¹ It should be noted that the Durham literature was immediately reposted and remains undisturbed.

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boards at the Baldwinsville facility of Anheuser-Busch. Mr. Henry, within four (4) days of the date of this decision, and Local 1149, within seven (7) days of the date of this decision, shall each file an affidavit with the Election Officer demonstrating their compliance with these requirements.

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/ca

cc: Frederick B. Lacey, Independent Administrator

William B. Kane, Regional Coordinator

Ron Carey
c/o Richard Gilberg, Esquire
Cohen, Weiss & Simon
330 West 42nd Street
New York, NY 10036-6901
Tel: 212-563-4100
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Walter Shea
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Fax: 202-223-9677

NOTICE TO TEAMSTER MEMBERS

All IBT members have the right to participate in campaign activities on behalf of candidates for International Office in the IBT.

All IBT members employed here have the right to post campaign literature on all appropriate bulletin boards.

It is a violation of your campaign rights for any candidate or any other person to cover-up or remove all or any substantial part of such literature.

I will not remove or cover-up any such literature in the future.

ROBERT HENRY

This is an official notice and must remain posted through December 10, 1991, and must not be altered, defaced, or covered with any other material.

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