



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 25, 1991

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

VIA UPS OVERNIGHT

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

Universal Badge Co.
169 O'Brien Highway
Cambridge, MA 02141

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

Francis W. Hackett
c/o IBT Local Union 25
544 Main Street
Boston, MA 02129

Re: Election Office Case No. P-988-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 Robert M. Baptiste of behalf of the Shea-Ligurotis Action Team. The protest contends that Universal Badge Company, Inc., a Cambridge, Massachusetts business, made a campaign contribution to the R. V. Durham Unity Team via a solicitation of business sent to IBT subordinate bodies and officers.

The protest was investigated by the Washington, D.C. office of the Election Officer. Universal Badge Company, Inc. is a Massachusetts corporation engaged in the business of selling buttons, badges, and similar items to members of the public at large. Universal, or its predecessor organizations, have been engaged in this business since 1934. Over the years Universal has supplied buttons, badges, and similar items to a variety of labor organizations including the IBT and subordinate bodies of the IBT. Universal sales have included buttons, badges, and similar items for internal union elections, organizing purposes, the promotion of legislative goals, and the like. As a result of the business relationship it has had through years with the IBT and subordinate bodies of the IBT, Universal has compiled a mailing list of IBT entities.

In October 1991, Universal Badge Company, Inc. sent a solicitation for orders to the IBT officers and entities on its mailing list, compiled as described above. That solicitation included a one-page 8 1/2 x 11-inch written document on company letterhead. The advertisement reflected that Universal Badge has been providing buttons and badges to labor unions for the past 60 years. It noted that its badges help labor unions in a variety of ways, listing 11 such areas. Two of the items listed, the eighth and the last, relate to internal Union elections, stating "Back the national officers that best reflect your needs" and "Attain the highest union office you can." The advertisement contained illustrations of available buttons by size and price. The wording on the four illustrations were (1) "We will if we have to;" (2) "NO RIF;" (3) "Vote the Carey Team;" and (4) "Vote O'Neil B. A." The advertising sheet ended by urging the recipients to call and order buttons and badges, noting that "wearing a badge is a personal commitment."

Included in the package were three additional items. The first was another advertisement for Universal Badge containing a business card "to be punched out" and placed in the recipient's filing system. Also included was a orange, cloth-like badge. Printed on the badge were the words "Retain Hackett, I.B.T. V.P." Mr. Hackett is a nominated candidate for IBT International Vice President and is seeking election as a member of the R. V. Durham Unity Team. Affixed to the badge was a white sticker stating that the badge was a sample and giving the name, address and phone number of the company.

The Election Officer investigation determined that badges of this type had been ordered on behalf of Mr. Hackett prior to the 1991 IBT International Union Convention. Such badges were provided by Universal Badge to Mr. Hackett's campaign at the usual and customary price charged by Universal Badge for similar items. They were used by Mr. Hackett in his campaign prior to and during the time of the 1991 IBT International Union Convention. At the time the order for these badges was filled by Universal Badge Company, extra badges were produced. These extras were the items that were included in the October 1991 solicitation.

The remaining item included within the packet was a 1 3/4-inch button, white background with blue lettering, stating "I'm with Durham." Affixed to the back of the button was a sample sticker identical to the sample sticker affixed to the Hackett badge. This button was specially and specifically manufactured by Universal Badge Company for the October 1991 solicitation.

The Election Officer investigation determined that Universal Badge is an independent business entity not controlled by any candidate for IBT International Union office, the supporter of any such candidate, or any IBT member. The Election Officer found no evidence that the October 1991 solicitation was made at the behest, or under the direction, of any candidate for IBT International Union office, any such candidates' supporters, or any member of the IBT. There is no evidence that any candidate, candidate supporter, or IBT member had knowledge of the solicitation or its contents

prior to its distribution by Universal Badge. The Election Officer investigation determined that the decision to prepare and distribute the solicitation, as well as the contents of the solicitation, was determined independently by managerial officials of Universal Badge.

Universal's solicitation appears to have been successful. Subsequent to the distribution of its solicitation package, it has received a number of orders from candidates for Local Union office or their supporters. It has also received one order for buttons for an International Union officer candidate.

Universal Badge Company, Inc. is an employer within the meaning of the *Rules*. Article X of the *Rules* prohibits employers from making any campaign contribution to any candidate for International Union office. The *Rules* define "campaign contributions" to include "any direct or indirect contributions where the purpose, object, or foreseeable effect of that contribution is to influence the election of the candidate." Definitions, (6) at A-2. Solicitation by an employer for business from IBT members, including nominated candidates for International Union office, is not necessarily, however, a violation of the *Rules*. Sellers of goods and services engage in marketing activities in the normal course of business. Employer utilization of its funds to solicit orders from IBT members and/or candidates for IBT International Union office with the hope that the cost of such solicitations will be paid out the future sales does not violate the *Rules*. See Election Office Case No. P-284-IBT, reversed on other grounds 91-Elec. App.-194.

Neither the contents of the solicitation letter nor the materials included in the solicitation package were controlled, or under the control of, any candidate for IBT International Union office, any candidate's supporter, or any IBT member. Utilization of leftover goods for solicitation purposes is a recognizable marketing device. While the badge and button included in the solicitation packet related to International Union candidates associated with the R. V. Durham Unity Team, the solicitation letter itself included an illustration of a button for the Ron Carey Slate.

Further, Universal Badge has agreed to engage in a further solicitation of orders and to include in such solicitation package both a 1 3/4-inch campaign button for the Shay-Ligurotis Action Team as well as a 1 3/4-inch campaign button for the Ron Carey Slate. Universal has agreed that the solicitation letter included in the package shall be consistent with the advertising letter contained in its previous October 1991 solicitation. Universal Badge has agreed that its solicitation shall be mailed on or before November 1, 1991 to all recipients of its earlier solicitation package. The Election Officer determines that the distribution by Universal Badge of such new solicitation, including campaign buttons for both the Shea-Ligurotis Action Team and the Ron Carey Slate, remedies any advantage garnered by the R. V. Durham Unity Team or candidates associated with the R. V. Durham Unity Team as a result of the earlier solicitation package distributed by Universal Badge Company, Inc.

Walter Shea
Page 4

The protest is resolved in accordance with the foregoing. Universal Badge Company, Inc. shall provide an affidavit to the Election Officer within three (3) days of the mailing of its new solicitation described above, documenting that the solicitation package was mailed to all recipients of its earlier October 1991 solicitation and the new package included 1 3/4-inch buttons for the Shea-Ligurotis Action Team and the Ron Carey Slate.

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

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

MHH/cb