

OFFICE OF THE ELECTION OFFICER
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Michael H Holland
Election Officer

October 28, 1991

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VIA UPS OVERNIGHT

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

Robert Henry
2 Braeside Road
Baldwinsville, New York 13027

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

Steve Richmond
2023 County Line Road
Phoenix, New York 13135

Re: Election Office Case No. P-992-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 Hugh Beins on behalf of Steve Richmond, an IBT member of Local 1149. In his protest, Mr. Beins alleges that Mr. Richmond has been subjected to threats and harassment by other IBT members in his Local due to his support of the Durham Unity Team and in retaliation for his participation in a prior Election Office protest. See Election Office Case No. P-967-LU1149-PGH.¹ This protest was investigated by Election Office Regional Coordinator William Kane.

By letter dated October 18, 1991 the Election Officer issued a decision in Election Office Case No. P-967-LU1149-PGH finding that Robert Henry, a member of Local

¹ In response to this current protest, Richard Gilberg, as counsel for the Committee to Elect Ron Carey, contends that the conduct of Mr. Beins in forwarding the protest to the employer of Mr. Richmond violates the *Rules*. While the Election Officer notes that he views with disfavor attempts to utilize employers to discipline IBT members employed by such employers for alleged violations of the *Rules*, see Election Office Case No. P-167-LU783-SCE, as affirmed 91-Elec. App.-36, there is no evidence that Mr. Beins was seeking to have retaliatory discipline imposed. Further, the protest document mentions no names other than that of the member on whose behalf the protest was filed. Under these circumstances, the Election Officer declines to find a *Rules* violation.

Union 1149 employed by Anheuser Busch at its Baldwinsville, New York facility had removed Durham campaign literature from the bulletin board at that facility. Having found that Mr. Henry had violated the *Rules*, the Election Officer directed Mr. Henry to sign a notice and Local 1149 to post the notice on all bulletin boards at the Baldwinsville facility of Anheuser Busch facility.

Prior to the time the protest regarding the removal of campaign literature was filed, a crude and derogatory remark about Mr. Richmond was written on the back of one of the stalls in the men's room. The statement was written with a black magic marker. Underneath in smaller letters, written with a red magic marker, was a reference to "Harry" and "Jim," which Mr. Richmond contends refers to Harry Pettit and Jim Howe, two Local 1149 officials who, like Mr. Richmond, support Mr. Durham and his slate.

Mr. Richmond also reported fact of such writings to management personnel of Anheuser Busch. Mr. Richmond has no information identifying the author of these remarks, nor was the author's identity uncovered during the investigation of this protest. Both the evidence presented by Mr. Richmond and that discovered during the investigation is insufficient to find whether this graffiti was placed on the wall due to Mr. Richmond's support of the R. V. Durham Unity Team slate. Further, although the remark is offensive, it was not a threat and does not on its face constitute a violation of the *Rules*.

Shortly after the filing of the prior protest, but before the Election Officer's determination was issued, Mr. Richmond's locker was defaced. Someone, whose identity was unknown to Mr. Richmond and whose identity was not uncovered in the investigation of this protest, placed a Ron Carey campaign sticker on the front of Mr. Richmond's locker. Mr. Richmond covered the sticker with Durham material. The next day, the Durham material had been defaced with an "X" written with a black magic marker. Subsequently, all the campaign material was removed from the locker; however, part of the black "X" remains. Mr. Richmond reported this incident to company management to provide discipline from being imposed on him for defacing company property. Mr. Richmond has no information as to who may have placed the black "X" on his locker, although he speculates that it was Mr. Henry. The Election Officer in his investigation was unable to identify the individual who defaced the literature.

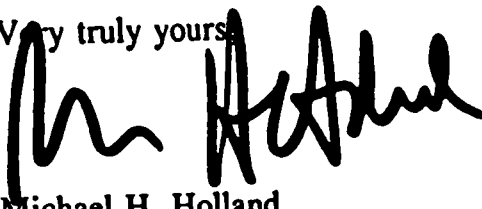
As the Election Officer stated in his decision in Election Office Case No. P-967-LU1149-PGH, the removal and defacement of campaign literature, properly posted, is a violation of the *Rules* and all members are cautioned to avoid tampering with another member's campaign material. As noted in that decision, this type of action jeopardizes the political rights of all candidates and the right of IBT members to support the candidate(s) for International office of their choice.

Hugh J. Beins, Esq.
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~~No evidence was presented or uncovered in the investigation of this protest identifying who was responsible for the defacing of the campaign literature or the bathroom graffiti.~~ There is no evidence to support Mr. Richmond's speculation that Mr. Henry is responsible. Since a notice has been posted advising all IBT members employed at this Anheuser Busch facility of their right to participate in campaign activities on behalf of candidates for International office, and their right to post campaign literature as well as the prohibition against removing campaign literature posted by someone else, no further relief is necessary at this time. However, the Election Officer emphasizes that harassment of an IBT member because of his/her political views is a serious violation of the *Rules*. When the perpetrator of such harassment can be identified, the Election Officer will not hesitate to impose severe sanctions.

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

Hugh J. Beins, Esq.
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Joseph E. Santucci, Jr.
Counsel for Anheuser-Busch
c/o Morgan, Lewis & Bockius
1800 M Street, N.W.
Washington, D.C. 20036

IN RE:

STEVE RICHMOND

and

ROBERT HENRY

and

IBT LOCAL UNION NO. 1149

91 - Elec. App. - 218 (SA)

DECISION OF THE
INDEPENDENT ADMINISTRATOR

This matter arises as an appeal from the Election Officer's decision in Case No. P-992-LU1149-PGH. A hearing was held before me by way of teleconference at which the following persons were heard: John J. Sullivan and Barbara Hillman for the Election Officer; William Kane, a Regional Coordinator; John Axelrod for the R.V. Durham Unity Team; and Richard Gilbert for the Committee to Elect Ron Carey. In addition, the Election Officer provided a written Summary in accordance with Article XI, Section 1.a.(7) of Rules for the IBT International Union Delegate and Officer Election (the "Election Rules").

In this protest, Steve Richmond, a member of IBT Local 1149 who supports R.V. Durham for IBT General President charges that a fellow member of his Local, Robert Henry, harrassed him because he supports Durham. Mr. Henry supports a rival candidate, Ron Carey,

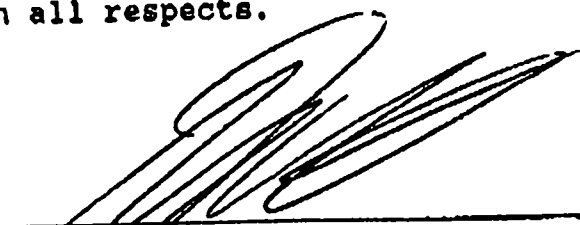
for IBT General President. Specifically, Mr. Richmond claims that he has been the subject of derogatory graffiti in the men's room at his place of employment and he has had his locker defaced as a result of his support for Durham.

The Election Officer investigated this matter in connection with another matter involving the removal of Durham campaign literature from an employee bulletin board. See Election Officer Case No. P-967-LU1149-PGH. Based on this inquiry, the Election Officer determined that there was insufficient evidence to determine identity of the individual or individuals responsible for the incidents concerning Mr. Richmond.

At the hearing before me nothing was presented to suggest that the Election Officer had reached an erroneous conclusion. Accordingly, I affirm the decision of the Election Officer in this matter.

However, I note that at the hearing before me, the additional matters of a posting of a derogatory letter on Mr. Richmond's locker as well as the institution of internal Union disciplinary proceedings by Mr. Henry against Mr. Richmond, were raised. The Election Officer has treated these issues as the subject matter of a new protest and has begun an investigation. These issues are therefore not properly before me on this appeal and are not included in the scope of this decision. I will consider them when and if they become the subject of an appropriate appeal.

For the foregoing reasons, the decision of the Election Officer in this case is affirmed in all respects.



Frederick B. Lacey
Independent Administrator
By: Stuart Alderoty, Designee

Dated: November 5, 1991