

October 29, 1996

**VIA UPS OVERNIGHT**

Don Davies  
Teamsters Local Union 31  
1 Grosvenor Square  
Delta, BC V3M 5S1

Ron Douglas  
Teamsters Canada  
1867 W. Broadway, Suite 204  
Vancouver, BC V6J 4W1

Louis Lacroix, Vice President  
Teamsters Canada  
2540 Daniel Johnson, Suite 804  
Laval, Quebec H7T 2S3

Mike Crawford  
Teamsters Canada  
1867 W. Broadway, Suite 204  
Vancouver, BC V6J 4W1

David P. Kozak, Secretary-Treasurer  
Teamsters Local Union 464  
490 E. Broadway  
Vancouver, BC V5T 1X3

Ron Carey Campaign  
c/o Nathaniel K. Charny  
Cohen, Weiss & Simon  
330 W. 42nd Street  
New York, NY 10036

Ed MacIntosh, Secretary-Treasurer  
Teamsters Local Union 213  
490 E. Broadway  
Vancouver, BC V5T 1X3

Bradley T. Raymond  
Finkel, Whitefield, Selik, Raymond,  
Ferrara & Feldman, P.C.  
32300 Northwestern Highway, Suite 200  
Farmington Hills, MI 48334

Diana Kilmury, Vice President  
International Brotherhood of Teamsters  
2612 E. 47th Avenue  
Vancouver, BC V5S 1C1

**Re: Election Office Case No. P-1062-LU213-CAN**

Gentlepersons:

Don Davies, a member of Local Union 31, filed a pre-election protest pursuant to Article XIV, Section 2(b) of the *Rules for the 1995-1996 IBT International Union Delegate and Officer Election ("Rules")* alleging that Joint Council 36 Vice President and International vice president candidate Dave Kozak, International Vice President-At-Large and a candidate for reelection Diana Kilmury, Ron Douglas, Local Union 31 member Mike Crawford, Ed MacIntosh, Teamsters Canada President Louis Lacroix, Local Union 213 and Teamsters Canada violated the *Rules* by holding a campaign event in support of Ron Carey, IBT general president and a candidate for reelection, under the auspices of Teamsters Canada. Specifically, Mr. Davies alleges that the Biltmore Hotel meeting hall was booked by Mr. Crawford under the name of Teamsters Canada and that the event was both organized and paid for by either Local Union 213 or Teamsters Canada. Mr. Davies also asserts that there were radio advertisements and flyers handed out advertising the event as a Teamsters Canada event.

Mr. Crawford admitted that he booked the hall under the name of Teamsters Canada, but stated that the Carey campaign paid for the costs of rental. Mr. Crawford says that there were no leaflets or radio advertisements. Ms. Kilmury states that the pins, t-shirts and other campaign materials were paid for by the Carey campaign and that she knows nothing of advertisements.

Regional Coordinator Gwen K. Randall investigated this protest.

The investigation revealed that on October 2, 1996, the protester heard through word-of-mouth about an upcoming meeting to be held on October 5, 1996. Mr. Davies asserts that he heard that the meeting was being sponsored by Teamsters Canada and that it was entitled, "How to Get More from Your Local Union." The meeting was actually a Carey campaign meeting to be held at the Biltmore Hotel in Vancouver, British Columbia at approximately 1:00 p.m. on October 5, 1996.

Mr. Davies, International Vice President and Local Union 31 President Garnet Zimmerman and several members of Local Unions 31 and 213 went to the Biltmore Hotel around noon and handed out Hoffa slate campaign literature in support of Mr. Zimmerman's candidacy.

When the event was scheduled to begin, Mr. Davies and his companions entered the room in order to register. Mr. Davies states that at this time he noticed that campaign materials, t-shirts, beer and Teamsters Canada materials were being distributed at no charge to the participants. Mr. Crawford states that he spoke to Mr. Zimmerman outside the meeting room and advised him that this was a private function. Mr. Crawford also advised security. There was no incident, however, and the protester's group left after handing out leaflets outside the meeting room.

The event consisted of discussions on organizing and getting members to vote for the Ron Carey No Corruption-No Dues Increase Slate. In addition, the video "Two Countries, One Union" was shown and copies of the Carey campaign video "No Mob Rule" were handed out to participants.

Mr. Davies states that he has obtained a copy of the hotel bill for the event, which shows that the room was booked by Local Union 213 and/or Teamsters Canada and that the total was billed to a Teamsters corporate account. Thus, he alleges that Teamsters Canada, and/or Local Union 213, paid for the campaign event, including the rental of the hotel room, the food and beverages, and the cost of advertising. In addition, Mr. Davies asserts that by booking the hotel meeting room through Teamsters Canada, the Carey campaign received a discount that it would not have been given had the room been booked through the campaign.

Mr. Davies also alleges that Teamsters Canada donated lapel pins and magazines to the Carey campaign and that the IBT donated videotapes for distribution to the membership, in violation of the *Rules*.

Furthermore, the protester alleges that he and other IBT members in his group were improperly barred from a union-sponsored event.

1. Allegations Concerning Sponsorship of a Campaign Event

Article VIII, Section 11(c) of the *Rules* provides, in relevant part:

Union funds, facilities, equipment, stationery, personnel, etc., may not be used to assist in campaigning unless the Union is reimbursed at fair market value for such assistance, and unless all candidates are provided equal access to such assistance and are notified in advance, in writing, of the availability of such assistance.

The Election Officer has prohibited the use of union resources in campaigning even when such use is isolated or slight. Olson, P-172-LU70-CSF (November 1, 1995) (use of union telephone for three calls of short duration to assist in campaigning during work time); Yeakel, P-762-LU773-PNJ (June 5, 1996) (barring display of campaign hats along with union hats in union office); Miller, P-504-LU147-MOI (April 23, 1996) (local union made its office available to a campaign as the location to pick up a raffle prize); Hoffa, P-865-IBT-MGN (August 26, 1996) (use of union telephone and use of office for brief meetings).

As noted above, Mr. Crawford admitted that he booked the Biltmore Hotel's meeting room under the name of Teamsters Canada. That use of a union name--and its associated credit history and goodwill--was an improper use of union resources, in violation of the *Rules*.

The investigation disclosed, however, that neither Teamsters Canada nor Local Union 213 paid any costs associated with the event. The bill that Mr. Davies obtained was sent by the hotel on October 7, 1996. The Biltmore Hotel generally bills Local Unions 464 and 213 together on one bill, which has caused problems in the past. On October 11, 1996, both Local Unions 213

and 464 caught the mistake in the billing of the campaign event. Local Union 213 instructed the hotel to correct the billing statement. Furthermore, as a result of this incident, Local Union 213 asked the hotel to implement new billing policies to ensure more accurate billing. The Election Officer finds that this confusion is a direct result of Mr. Crawford's booking of the campaign event under the name of Teamsters Canada.<sup>1</sup>

The hotel reissued the invoice, transferred the charges for the Carey campaign event to Mr. Kozak and sent a letter to the local union acknowledging the mistake and billing Mr. Kozak's personal account for the room, food and beverages. The bill was paid by Mr. Kozak. Copies of the original and the revised bills were submitted to the Regional Coordinator. In addition, the investigation revealed that there was no advertising of the event. Thus, the Election Officer finds that neither Local Union 213 nor Teamsters Canada paid the costs for the meeting room rental, food or beverages for this event.

Mr. Davies asserts that by booking the hotel meeting room through Teamsters Canada the Carey campaign received a discount which it should not have received.

Article XII, Section 1(b)(1) of the *Rules* states, in relevant part:

[n]o employer may contribute, or shall be permitted to contribute, directly or indirectly, anything of value, where the purpose, object or foreseeable effect of the contribution is to influence, positively or negatively, the election of a candidate. No candidate may accept or use any such contribution. These prohibitions are not limited to employers that have contracts with the Union; they extend to every employer, regardless of the nature of the business . . . These prohibitions extend beyond strictly monetary contributions made by an employer and include contributions or use of employer stationery, equipment, facilities and personnel.

The Biltmore Hotel is an employer, under the *Rules*. Thus, it would have given, and the Carey campaign would have accepted, an improper employer contribution if it had given the Carey campaign a discount to which it would not otherwise have been entitled.

The Biltmore Hotel states that it would have given the discount to anyone who identified himself as a Teamster. Thus, the Election Officer finds that the Carey campaign did not receive a campaign contribution in violation of the *Rules*.

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<sup>1</sup>The Election Officer notes that the error on the hotel bill was not caught until after the protest was filed.

The Election Officer finds that Ms. Kilmury paid for the duplication costs of the videotapes given out at the meeting and that Mr. Kozak paid for the Teamsters Canada magazines and lapel pins. Ms. Kilmury and Mr. Kozak submitted copies of the paid invoices to the Regional Coordinator.

2. Allegation Concerning Access to Event

The provisions of the *Rules* that give members and candidates certain rights of access to local union meetings do not apply to campaign events.<sup>2</sup> “[W]ith respect to the International officer election, members have the right to associate with like-minded members and to exclude others.” Rudolph, P-861-TDU-PNW (August 29, 1996); Konowe, P-008-LU732-NYC (October 29, 1990), aff’d, 90 - Elec. App. - 8 (November 7, 1990).

Thus, the organizers of the Carey campaign event in question had the right to exclude the protester and his companions. That action did not violate the *Rules*.

For the foregoing reasons, the protest is GRANTED as to the booking of the hotel room under the name Teamsters Canada and DENIED in all other respects.

When the Election Officer determines that the *Rules* have been violated, she “may take whatever remedial action is appropriate.” Article XIV, Section 4. In fashioning the appropriate remedy, the Election Officer views the nature and seriousness of the violation, as well as its potential for interfering with the election process.

The Election Officer orders Mr. Crawford and Local Union 213 to cease and desist from using the Teamsters Canada name when booking venues, or obtaining any other goods or services, for events which are not sponsored by Teamsters Canada.

An order of the Election Officer, unless otherwise stayed, takes immediate effect against a party found to be in violation of the *Rules*. In Re: Lopez, 96 - Elec. App. - 73 (KC) (February 13, 1996).

Any interested party not satisfied with this determination may request a hearing before the Election Appeals Master within one day of 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:

Kenneth Conboy, Esq.  
Latham & Watkins  
885 Third Avenue, Suite 1000

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<sup>2</sup>See Article VIII, Section 5(a).

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New York, NY 10022  
Fax (212) 751-4864

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Copies of the request for hearing must be served on the parties listed above as well as upon the Election Officer, 400 N. Capitol Street, Suite 855, Washington, DC 20001, Facsimile (202) 624-3525. A copy of the protest must accompany the request for a hearing.

Sincerely,

Barbara Zack Quindel  
Election Officer

cc: Kenneth Conboy, Election Appeals Master  
Gwen K. Randall, Regional Coordinator