

April 4, 1996

VIA UPS OVERNIGHT

Pat Miraglio, Secretary-Treasurer
Teamsters Local Union 439
1531 E. Fremont Street
Stockton, CA 95201

Ken Mee, Vice President
International Brotherhood of Teamsters
1452 N. 4th Street
San Jose, CA 95112

Teamsters for Ron Carey Slate
1040 W. Kettleman Lane #169
Lodi, CA 95240

John Sullivan, Assoc. Gen. Counsel
International Brotherhood of Teamsters
25 Louisiana Avenue, NW
Washington, DC 20001

Re: Election Office Case No. P-658-LU439-CSF

Gentlemen:

This protest was filed pursuant to Article XIV, Section 2(b) of the *Rules for the 1995-1996 IBT International Union Delegate and Officer Election* (“*Rules*”) by Pat Miraglio, secretary-treasurer of Local Union 439. The protester makes three allegations. First, he contends that the Teamsters for Ron Carey slate (“Carey”) in Local Union 439’s delegate election improperly obtained mailing labels for use in campaigning, in violation of the *Rules*. He further alleges that the Carey slate distributed a mailing that “contained maliciously false information . . . and deliberate lies,” in violation of the *Rules*. Finally, Mr. Miraglio alleges that Ken Mee, International vice president for the western region, campaigned on union time and with union resources at a facility that employs members of the local union.

The protest was investigated by Regional Coordinator Matthew D. Ross.

1. Mailing Labels

The protester alleges that the mailing labels used by the Carey slate in its mailing received by the protester on March 20, 1996, were obtained improperly. The protester reasons that because the Carey slate did not obtain the labels through the same process used by his own slate, the Carey slate received an “unfair advantage.” He further contends that the Carey slate’s use of these labels violates the privacy rights of local union members.

Bob Yolland, a Carey slate supporter, responds that the protested labels were provided by the Ron Carey campaign organization in Washington, D.C. According to Mr. Yolland, the requested labels were delivered to the mailing house used by the Carey slate to distribute its literature. Mr. Yolland states that the mailing house did not allow Carey slate members or supporters access to the labels. The Carey slate provided its literature to the mailing house, who affixed the labels and mailed the material to the membership.

Article VIII, Section 3 of the *Rules* allows candidates for International office to use membership lists for “advancing the candidate’s campaign for nomination and/or election . . .” To this end, Mr. Carey’s campaign organization provided mailing labels to the Carey slate to assist in the election of delegates who support Mr. Carey’s candidacy. Such use of membership information constitutes action to advance a candidate’s campaign for nomination and does not violate the *Rules*. The Election Officer has previously stated that delegate candidates may receive relevant membership information from accredited candidates for International office. See Cipriani, et al., P-420-LU391-SEC, et seq. (March 1, 1996), aff’d, 95 - Elec. App. - 123 (KC) (March 13, 1996).¹

In addition, Mr. Carey’s campaign organization took steps to prevent misuse of the information. The campaign delivered the labels to a mailing house and required the Carey slate to provide its literature to the same mailing house. The mailing house then affixed the labels to the literature and posted it. The Local Union 439 Carey slate was denied access to the labels.

Accordingly, this portion of the protest is DENIED.

2. Campaign Literature

The protester alleges that the literature mailed with the protested labels was “intended to deceive members into thinking that they are voting for Ron Carey [in the delegate election], and, more importantly, into voting for the ron carey [sic] slate.”

¹In another decision, Fahling, P-541-LU320-NCE, which relies on Cipriani, the Election Officer specifically rejects the argument that the furnishing of this material constitutes an “unfair advantage” over other candidates.

The Election Officer does not censor campaign materials. As stated in Newhouse, P-388-LU435-RMT (February 21, 1996) (quoting Rogers, P-518-LU373-SOU (February 21, 1991)):

The *Rules* . . . secure for all candidates the freedom to fully exercise political rights through solicitations, support and the distribution of campaign literature. The Election Officer has consistently applied the *Rules* so as to safeguard the exercise of these political rights. The *Rules* neither prohibit nor regulate the content of campaign literature.

Accordingly, this portion of the protest is DENIED.

3. Campaigning on Union Time

The protester alleges that on March 20, 1996, Mr. Mee campaigned at SDMI, an employer who employs more than 1,000 union members. Mr. Miraglio states that he has “reason to believe that Mee was on Union time and was in the same car that he uses for Union business . . .” at the time. He further alleges that Mr. Mee led the members at SDMI to believe that he was there in an official capacity.

Mr. Mee responds that his duties as an International officer did not require his presence elsewhere during the time he campaigned at SDMI and that he was on his own time. He further states that, while he receives a vehicle expense account from the IBT, he does not have a union-owned or leased vehicle or any usage limitations.

The IBT has previously advised the Election Officer that:

Vice Presidents serving exclusively as officers do not have to account for their time on a daily basis, even though they customarily perform services on behalf of the union and its members on a daily basis. These officers do not accrue leave. Once they have completed an assignment, or if they are between assignments, their time is their own. As an International vice president, [such officers are] required to conduct IBT business by attending the quarterly meetings of the General Executive Board (See Article IX, Section 1,5 of the IBT Constitution) or as authorized by the general president to assume additional duties (See Article V, Section 1(a) of the IBT Constitution).

Mr. Mee acknowledges that he campaigned at the SDMI work site. However, he submitted to the Election Office his monthly expense report for March 1996, which he submits to the IBT. The report indicates that he was not on union time on March 20, 1996.

Further, the investigation revealed that Mr. Mee does not drive a union-owned or union-leased vehicle. He does receive a vehicle allowance, but is not restricted in the use of his private vehicle as a result.

In addition, the protester presented no evidence to support his allegation that Mr. Mee led members at SDMI to believe he was there in an official capacity.

Accordingly, this portion of the protest is DENIED.

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

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
Matthew D. Ross, Regional Coordinator