

May 13, 1999

VIA FIRST-CLASS MAIL

Charlie Gardner  
c/o Charlie Gardner Campaign Headquarters  
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1600 20<sup>th</sup> Street NW  
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Mike McGowan  
7254 Blackoak Drive  
Walls, MS 38680

Patrick J. Szymanski, General Counsel  
International Brotherhood of Teamsters  
25 Louisiana Avenue  
Washington, DC 20001

Doug Mims  
1645 Brantford Drive  
Tucker, GA 30084

Aaron Belk  
6502 Poplar Corner  
Walls, MS 38680

Re: Election Office Case No. SR-20-MG

Gentlemen:

Charlie Gardner, a member of IBT Local 745 and a candidate for Southern Region Vice -President, 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*") against IBT Local 728 in Atlanta, Georgia. The protester alleges that Local 728 endorsed the candidacy of Southern VP candidate Doug Mims in the Spring 1999 newsletter.

The protest was investigated by Regional Coordinator Maureen Geraghty.

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Local 728 regularly publishes a quarterly newsletter, the *728 News*, for its members. The newsletter contains articles on newsworthy events in the local and International Union.

In Spring 1999, Local 728 published an issue of the *728 News* which included on the front page an article entitled: ***Rerun Election Is On***. The article announces the dates of the Southern Region Rerun Election and includes information on the ballot mailing date, the election date and the reason for the rerun. The article also states that at press time, the declared candidates for Southern Region Vice President were Local 728 member Doug Mims and Local 667 member Aaron Belk. The article also states that although Local 667 member Mike McGowan's name appeared on the "Notice of Nominations and Procedure for Supplemental Nominations" posted at local worksites on April 7, Mr. McGowan subsequently informed the Election Officer that he does not wish to be a candidate and is instead supporting Mr. Mims' candidacy.

The protester asserts that the inclusion in the article of the sentence regarding Mr. McGowan's decision not to run and to support Mr. Mims' candidacy is tantamount to a Local 728 endorsement of Mr. Mims.

Article VIII § 8(a)(1) of the ***Rules*** provides that union-financed newspapers, newsletters or other publications shall not contain pictures or articles stating or indicating endorsement of any candidate. Article VIII does not prevent a local union from reporting on campaign events or occurrences, or even political and slate alignments. Article VII also does not prevent local union publications from reporting actual campaign or election-related news.

Local 728's article on the Southern Region Rerun Election, which includes a description of former candidate Mike McGowan's decision not to run and to support the candidacy of Doug Mims, is a factually accurate statement. The article does not state that Local 728, or any of its officers or employees, have endorsed Mr. Mims. Mr. McGowan's support of Mr. Mims is not attributable to Local 728 or its officers, because Mr. McGowan is a member of Local 667. Thus, the statement concerning Mr. McGowan's support of Mr. Mims' candidacy does not constitute an endorsement by Local 728 or its officers.

The protest is therefore DENIED.

Any interested party not satisfied with this determination may request a hearing before the Elections Appeals Master within one (1) day of receipt of this letter. The parties are reminded that absent extraordinary circumstances, no party may rely on evidence that was not presented to the Office of the Election Officer in any such appeal. Request for a hearing shall be made in writing and shall be served on:

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Kenneth Conboy, Esq.  
Latham & Watkins  
885 Third Avenue, Suite 1000  
New York, NY 10022  
Fax (212) 751-4864

Copies of the request for a hearing must be served on the parties listed above as well as upon the Election Officer, 444 North Capitol Street, N.W., Washington, D.C. 20001, Facsimile (202)624-3525. A copy of the protest must accompany the request for a hearing.

Sincerely,

Michael G. Cherkasky  
Election Officer

cc: Kenneth Conboy, Election Appeals Master  
Maureen Geraghty, Regional Coordinator