

May 28, 1999

VIA FACSIMILE

Chuck Crawley, President
Teamsters Local Union 988
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Houston, TX 77270

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Doug Mims
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Tucker, GA 30084

Paul Alan Levy, Esq.
Public Citizen Litigation Group
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Teamsters for a Democratic Union
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International Brotherhood of Teamsters
25 Louisiana Avenue
Washington, DC 20001

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Walls, MS 38680

Charlie Gardner Campaign Headquarters
3224 Highway 67 East, Suite 105
Mesquite, TX 75217

Re: Election Office Case No. SR-26-EOH-NYC

Gentlemen:

A 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 Chuck Crawley, President of Local Union 988, against Doug Mims, a member of Local Union 728 and against Teamsters for a Democratic Union. Mr. Crawley asserts that Mr. Mims and TDU have retaliated against Mr. Crawley because of his support for Charlie Gardner by distributing a leaflet that libels Mr. Crawley.

The protest was investigated by Election Office Representative Barbara C. Deinhardt.

According to Mr. Crawley, Doug Mims and TDU distributed a leaflet to members of Local 988 charging that Mr. Crawley threatened to take adverse action in a pending grievance unless the Business Agent involved supported Charlie

May 28, 1999

Page 2

Gardner. The leaflet called on Mr. Crawley to resign and urged the members to vote for Doug Mims as a watchdog against corruption. This leaflet was distributed prior to the Election Officer's decision in SR-14 finding merit to the protest alleging that this threat was made and that it violated the Rules. Mr. Crawley asserts that TDU distributed this leaflet to fulfill a threat TDU representative Ken Paff made to him that he would be sorry for having announced his support of Mr. Hoffa for IBT General President.

The Election Officer has long held that he will not regulate the content of campaign literature. The remedy for what someone may consider to be misrepresentations is for that person to distribute a factual rebuttal. While acknowledging that policy, the protester argues that in this case, the leaflet is not bona fide campaign literature about issues central to the campaign, a candidate, or the Southern Region Rerun Election generally. The protester argues that the leaflet attacks Mr. Crawley for having exercised his right under Article VIII, § 11(e) of the *Rules* to support the candidate of his choice, in this case Mr. Hoffa. The protester implies that the leaflet is for the purpose of disparaging Mr. Crawley in his upcoming Local Union election.

On its face, the leaflet in question is supportive of Mr. Mims and critical of Charlie Gardner supporters, using Mr. Crawley as an example. As such, it is legitimate campaign literature and the Election Officer will not regulate the content of the message here.¹ That the leaflet could conceivably also affect Mr. Crawley's local union election does not amount to a Rules violation.

Mr. Crawley argues that the cost of the leaflet, as campaign material, should be reported by TDU. The Election Officer notes that TDU's most recent Campaign Contribution and Expense Report ("CCER") itemizes expense for mailing the "Crawley leaflet, and it appears properly reported.

¹There is no contention that the leaflet was produced using union resources, or that it conveys a union's prohibited endorsement of a candidate. See *Rules*, Art. VIII, § 11(c).

May 28, 1999

Page 3

Mr. Crawley also argues that because the leaflet suggests that recipients copy and distribute it further, any secondary copying by volunteers should be reported as a contribution to Mr. Mims. That argument is rejected. The Election Officer is not aware of any past holding that union volunteers who, on their own time and their own expense, independently choose to engage in campaign activity must report the value of their time and expenses as a campaign contribution. If all member activity and incidental personal expenses constituted reportable campaign contributions, that would ultimately curtail members' rights under the *Rules*, Art. VIII, §11(a), to support and campaign for the candidate of their choice. Such a blanket ruling would be contrary to established practice, as numerous candidates in the supervised election have encouraged member-to-member campaigning by putting a "copy and distribute" notice on literature. It would also contravene the Advisory on Campaign Contributions and Disclosure, which provides that minor expenses incidental to volunteer campaign activity are not campaign contributions. There is no suggestion that any copying occurred on a large scale, or that TDU or the Mims campaign used the "copy and distribute" message as a means to control individual member actions. If a member spends a small amount of his or her own money to copy a leaflet and engages in member-to-member campaigning, that has not been considered a campaign contribution.

Accordingly, 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, 444 N. Capitol Street NW, Suite 445, Washington, D.C. 20001, facsimile (202) 624-3525. A copy of the protest must accompany the request for a hearing.

Sincerely,

May 28, 1999

Page 4

Michael G. Cherkasky
Election Officer

cc: Kenneth Conboy, Election Appeals Master
Barbara C. Deinhardt, Esq.