



OFFICE OF THE ELECTION OFFICER
% INTERNATIONAL BROTHERHOOD OF TEAMSTERS
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November 26, 1991

VIA UPS OVERNIGHT

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Re: Election Office Case No. P-1110-IBT

Gentlemen:

A protest was filed with the Election Office pursuant to Article XI of the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("Rules"). In that protest, filed on behalf of the "Committee to Elect Ron Carey" ("Carey campaign"), it is alleged that the *Rules* were violated by Local Unions 580, 651 and 857 as a result of the use of union resources for certain campaign mailings.¹ Each of these mailings will be discussed seriatim.

¹ By letter dated November 20, 1991, another protest was received from IBT member Robert C. Ream raising identical allegations with respect to Local 857. That protest was consolidated with the earlier protest filed by the Carey campaign.

Teamsters Local 857, because the government will not allow me or your Local Executive Board to make a recommendation as your leaders." The literature concludes with the statement "PRINTING AND LABOR DONATED BY THE COMMITTEE TO ELECT RESPONSIBLE LEADERSHIP. ENVELOPES WERE PURCHASED FROM LOCAL 857 BY THE COMMITTEE TO ELECT RESPONSIBLE LEADERSHIP." All costs of printing and mailing, including the costs of purchasing the envelopes from the Local Union, were paid by the Committee.

A common element in the objections of the Carey Campaign to the three mailings at issue in this protest is the identification of endorsers as officers of the respective Local Unions. The *Rules* specifically provide that all Union members, including Union officers and employees, have the right to participate in all campaign activities, including the right to openly support any candidate, to aid or campaign for any candidate and to make personal campaign contributions. *Rules*, Article VIII, § 10(b). Accordingly, Local Union officers or members of a Local Union Executive Board as IBT members have the right to support and endorse candidates for International Union office and the right to publicize such endorsement provided no Union funds are utilized. Further, any IBT member, including Local Union officers may identify his or her position of employment or office while engaging in campaign activity, including when making or publicizing an endorsement. See Advisory on Campaign Contributions and Disclosure, issued August 14, 1991 ("Advisory"), page 5. Thus the *Rules* do not prohibit the officers of a Local or members of a Local Union Executive Board from identifying themselves as such when making or publicizing an endorsement of International Union Officer candidates; as long as the endorsement is not made as an official endorsement of the Local Union or the Local Union Executive Board as an entity, but as individual endorsements by the members of the Executive Board, the *Rules* have not been violated.

A fair reading of each of the campaign mailings at issue in this protest demonstrates that the literature is not an endorsement by the Local Union or Local Union Executive Board as an entity. Rather, a fair reading of the letter demonstrates that the individual Local Union officers or members of the Executive Board(s) of the respective Local Unions made the endorsements as individual members of the IBT, albeit as members who are also officers of an IBT subordinate body. This fact was made explicit in the Local Union 857 ("I write to you as a Union Brother, not as the Secretary-Treasurer of Teamsters Local 857. . .") and the Local Union 651 mailings ("FOR IDENTIFICATION PURPOSES ONLY"). The statement in the Local Union 580 mailing ("[t]he individual members of the Executive Board and Staff of Local 580 have endorsed. . .") can only be reasonably read as individual rather than institutional endorsements of candidates. Thus, the endorsements and the publication of the endorsements at issue in this protest do not violate the *Rules*.

The Carey campaign also challenges the method of the mailing. The mailing of candidate literature is governed by Article VIII, § 6 of the *Rules*. This section of the *Rules* provides that Local Unions shall honor requests for mailing of campaign literature, treat all requesting candidates similarly and provide access to the unions bulk rate and/or non-profit bulk-rate status, if available. The *Rules* further provide that if the non-profit bulk-rate status is used such mailings "shall clearly state that it is campaign literature, the contents of which are not endorsed by the Union." Article VIII, § 6(a)(3). The reason for this disclaimer is that postal regulations normally require that the name of the

Ron Carey
November 26, 1991
Page 4

non-profit entity which holds the bulk-rate mailing permit, i.e., the Union, must appear as the return address of the mailing.

With respect to the Local Union 651 mailing, the campaign material was mailed in a blank envelope and the postage was paid for by members and not the Local Union. While the non-partisan "get out the vote" mailing was done in an envelope with the Local Union's return address and the costs of the mailing itself were paid for by the Union, this was not violative of the *Rules* because the literature did not identify or seek to advance the candidacy of any candidate or campaign and was therefor not campaign literature.

The mailing by the "Local 580 Members for Durham Committee" did not have the address of the Local Union as a return address. The name of the Committee, while it contains "Local 508," is clearly distinguishable from that of the Local Union. Moreover, while the IBT Logo appears next to the name and address of the Committee, the use of the logo, a common occurrence in this campaign, does not create the appearance that the literature is from the Local Union. See Election Office Case No. P-958-LU810-NYC, affirmed 91-Elec. App.-228. No disclaimer was required on the Local 580 Members for Durham Committee mailing.

The campaign mailing to the members of Local Union 857 was enclosed in an official Local Union 857 envelope and used the Union's non-profit bulk-rate permit. Because the envelope did not contain a disclaimer required by Article VIII, § 6(a)(3) that mailing was violative of the *Rules*. However, in assessing the effect of that violation, and the formulation of an appropriate remedy, the Election Officer looked at the literature mailed in the envelope. The literature on its face is campaign literature. The literature does not indicate that it comes from the Local Union or that its campaign message is endorsed by the Local Union. In fact, the literature states on its face that it is from Jerry Laird in his personal capacity and not as Secretary-Treasurer and further states that the Local Union Executive Board is prohibited from making campaign endorsements. Finally, prominently printed at the bottom of the literature is a statement that the "ENVELOPES WERE PURCHASED FROM LOCAL 857 BY THE COMMITTEE TO ELECT RESPONSIBLE LEADERSHIP."

In light of the forgoing, the Election Officer concludes that, with the exception of the Local Union 857 mailing, the *Rules* have not been violated. With respect to the Local Union 857 mailing the Election Officer concludes that the *Rules* have been violated. However, as noted above, the literature did not indicate in any way that it was an official Union communication or that the contents were endorsed in whole or in part by the Local Union; indeed the literature disclaimed such endorsement although not in the words of the *Rules*. Accordingly, the Election Officer determines that no remedy is necessary for the technical violation of the *Rules*. Election Office Case No. P-522-

LU519-SEC; see also Election Office Case No. P-271-LU657-SOU. The Election Officer, however, notifies Local Union 857, its officers and agents, that any future mailing of campaign literature using the Local Union's non-profit bulk-mail permit and/or the Local Union return address shall prominently display the disclaimer required by Article VIII, § 6(a)(3) of the *Rules* on the outside of the envelope.

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,

A handwritten signature in black ink, appearing to read "Michael H. Holland". The signature is written in a cursive, flowing style.

Michael H. Holland

cc: Frederick B. Lacey, Independent Administrator

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