

OFFICE OF THE ELECTION OFFICER
% INTERNATIONAL BROTHERHOOD OF TEAMSTERS
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Election Officer

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September 9, 1991

VIA UPS OVERNIGHT

Dennis J. Nagle
13 Bourne St.
Attleboro, MA 02703

William J. McCarthy
President
IBT Local Union 25
544 Main St.
Boston, MA 02129

**Re: Election Office Case Nos. P-766-LU25-ENG
and P-861-IBT**

Gentlemen:

Two protests have been filed pursuant to Article XI, §1 of the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("*Rules*"). In his protests Dennis Nagle, an elected delegate to the 1991 IBT International Union Convention, alleges that May and July, 1991 editions of the Local 25 newsletter have been used to promote the candidacies of certain individuals for International office in the IBT in violation of the *Rules*.

These protests were investigated by the Washington, D.C. office of the Election Officer and Regional Coordinator Elizabeth Rodgers. The investigation discloses the following facts: the May 1991 issue of "The Spokesman," the official newsletter of Local Union 25, features a front page article under the headline "Delegates Back Hackett's VP Bid". The article reports in its lead paragraph that "Delegates to the Teamsters National Convention on June 24 in Orlando, Florida voiced support for Frank Hackett to be elected International Vice President during the regular Union meeting on April 21 at the Union Hall." The third paragraph of the article reports "Most of the delegates said they backed International Vice President Hackett who is a business agent and a delegate. Several also said they are backing International Trustee Robert DeRusha, who is Secretary-Treasurer for Joint Council 10."

Nagle who is delegate from Local 25 objects to the article as campaign material. He also objects that the article is misleading because, as a delegate, he does not support Hackett or DeRusha for International office, and he feels the article does not accurately report the extent of either candidate's support.

The July, 1991 edition of "The Spokesman" contained coverage of the 1991 International Union Convention. Included in such coverage are Convention related

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articles and pictures of General President William J. McCarthy. The issue also contains an article covering the nominations for International Union officer positions made at the 1991 International Union Convention. The article identifies all candidates nominated for General President and General Secretary-Treasurer. It also identifies and gives the slate affiliation of all five members elected at the Convention to International office. The newsletter further prints a picture of one of the International Trustees elected at the Convention. The losing candidates for Trustee are neither mentioned nor pictured.

With respect to the candidates for International Vice President, the article covering nominations in the July issue of the newsletter identifies only one nominee; the candidate so identified is Frank Hackett, nominated for International Vice President from the Eastern Conference. Mr. Hackett's slate affiliation is given. The headline of the article focuses on Mr. Hackett's nomination and is accompanied by a picture of Mr. Hackett.

The July, 1991 edition of "The Spokesman" also contained a two-page pictorial on the 1991 IBT International Union Convention. Pictures of Mr. Hackett appear among the pictures on the two-page spread. In addition, the pictures include pictures of nominated General President candidate R.V. Durham and a separate picture of his campaign supporters holding campaign signs and posters for Mr. Durham and his slate. No other nominated candidate for General President is pictured; the newsletter contains no pictures of campaign signs or campaign supporters of any other nominated candidate for General President.

The *Rules* prohibit Union publications from supporting the candidacy of any member for any International Officer position. A Union whose publication carries a substantial number of articles about a candidate or articles featuring a particular candidate, unless all candidates for the same position are given equal treatment, equal space, and equal prominence violates the *Rules*. *Rules*, Article XIII, §7.

The Election Officer concludes that May, 1991 edition of the Local Union 25 newsletter violated the Election Rules because of the prominent front page coverage of the Frank Hackett campaign for Vice President without providing equal prominence to the other candidates for International Vice President. The Election Officer does not believe, however, the newsletter article is misleading in its report that Local 25 delegates endorse Hackett since the article states that "most" delegates endorse Hackett.

Further, the Election Officer does not find that the coverage given to General President in the July, 1991 issue of "The Spokesman" violates the *Rules*. Mr. McCarthy is not a candidate for any International officer position in the IBT. Neither the articles concerning Mr. McCarthy in the July, 1991 issue of "The Spokesman" nor the pictures of him appearing in that issue of the newsletter nor the captions under such pictures refer

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or relate to the International Union officer election. None of the material even suggests the identity of the candidate or candidates whom Mr. McCarthy is supporting in such election. Accordingly the coverage provided Mr. McCarthy in the July, 1991 issue of "The Spokesman" does not violate the *Rules*.

The Election Officer also does not find that the coverage given in the July, 1991 newsletter to the nominated candidates whose election has already been certified by the Election Officer violates the *Rules*. Candidates who were nominated for International Union Trustee or the position of International Union Vice President from the Canadian Conference are no longer candidates. Factual statements of their election, including the slate on which they sought election, do not violate the *Rules*.

While the election for International Union Trustee and International Vice President from the Canadian Conference may have ended, the situation is different for the remaining International Union officer positions. And as noted above, the *Rules* prohibit a Union publication from providing coverage for a candidate or candidates where the other candidates for the same position or positions are ignored. The Election Officer concludes that the coverage granted to Frank Hackett in the July, 1991 issue of "The Spokesman" does not provide equal prominence to the other nominated candidates for International Vice President from the Eastern Conference and is a violation of the *Rules*. This article, as noted above, was accompanied by a picture. The July newsletter also contained additional pictures of Mr. Hackett.

The only pictorial coverage of the General President candidates was of Mr. Durham. "The Spokesman" contains both a picture of him and a separate picture of his campaign supporters carrying placards with his name. The failure of the July, 1991 edition of "The Spokesman" to include pictures of either nominated General President candidate Ron Carey or Walter Shea or to carry any pictures of their supporters or campaign signs accordingly violates the *Rules*.

The Election Officer finds that nominated Vice President candidate Frank Hackett was featured in two issues of "The Spokesman," including pictures in the July, 1991 issue of the newsletter, while other candidates for the same office were granted no coverage whatsoever. To remedy these violations of the *Rules* regarding the campaign benefit afforded Mr. Hackett, the Election Officer directs the Local to grant equal coverage to all candidates for the same position, for the position of International Union Vice President from the Eastern Conference by publishing in the October, 1991 issue of "The Spokesman" campaign material of the other nominated candidates for Vice President from the Eastern Conference.

"The Spokesman" is published in a three-column format. Each nominated candidate for International Union Vice President from the Eastern Conference shall be

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granted one-third of one column for his campaign material. The material may include a black and white photograph; however, the inclusion by a candidate of a photograph in the material submitted shall not increase the amount of space otherwise available to the candidate. The material should be submitted in camera-ready form. Within ten days of the date of this decision, Local Union 25 or the editor of its newsletter shall notify each nominated candidate for International Union Vice President from the Eastern Conference of the date by which such candidates' campaign material must be submitted. A copy of such notice shall be sent simultaneously to the Election Officer. Local Union 25 shall also furnish the Election Officer with a copy of the proof sheets containing the campaign materials of the nominated candidates for International Union Vice President from the Eastern Conference prior to the printing of the October issue of the newsletter.

The violation found with respect to the candidates for General President involves the printing of pictures of Mr. Durham and his campaign supporters holding campaign signs, where no similar pictures of General President candidates Carey and Shea and their supporters were printed. To remedy this violation of the *Rules* the Election Officer directs the Local Union to grant equal coverage to General President candidates Carey and Shea by publishing in the October, 1991 issue of the newsletter a picture of each such candidate and/or his supporters. The picture shall be submitted by the candidates in camera-ready form. The pictures as submitted may be a picture of the candidate himself or a picture of the candidate with his supporters; campaign signs may be a part of the submitted pictures.

The pictures as printed shall be of equal size and neither larger nor smaller than the picture contained in the July, 1991 edition of "The Spokesman" of the supporters of General President candidate Durham. The pictures shall be captioned by the editor of "The Spokesman," indicating that the picture is of the General President candidate - naming the candidate - or that the picture is of the General President candidate - naming the candidate - and such candidate's supporters, as appropriate.

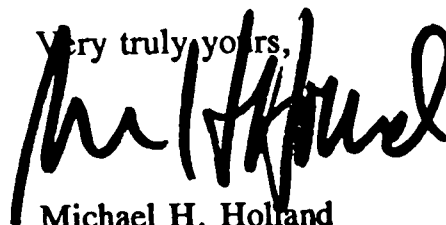
Within ten days of the date of this decision, Local 25 or the editor of "The Spokesman" shall notify General President candidate Shea and General President candidate Carey of the date by which such picture shall be submitted in order to be included in the October issue of "The Spokesman." A copy of the notice shall be sent simultaneously to the Election Officer. The Local shall furnish the Election Officer with a copy of the proof sheet containing such pictures prior to the printing of the October issue of the newsletter.

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,

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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,



Michael H. Holland

MHH/mjv

cc: Frederick B. Lacey, Independent Administrator
Elizabeth Rodgers, Regional Coordinator
Frank Carracino
Phil A. Feaster
Gene Giacumbo
Tom Gilmartin, Jr.
Francis "Frank" W. Hackett
Dan Kane
John P. Morris
Victor C. Olivadoti
Joseph P. Santone
Robert "Bob" Sasso
Joseph "Joe T" Trerotola

IN RE:

DENNIS J. NAGLE

and

IBT LOCAL UNION NO. 25

91 - Elec. App. - 189 (SA)

DECISION OF THE
INDEPENDENT
ADMINISTRATOR

This matter arises out of an appeal from a decision of the Election Officer in Case Nos. P-766-LU25-ENG and P-861-IBT. A hearing was held before me by way of telephone conference at which the following persons were heard: the complainant, Dennis J. Nagle; Randell E. Nash, on behalf of Local 25; Elizabeth Rodgers, the Regional Coordinator; and John Sullivan, on behalf of the Election Officer.

Mr. Nagle is a member of Local 25 and served as a delegate to the 1991 IBT Convention on behalf of that Local. Mr. Nagle contends that the May 1991 issue of The Spokesman, Local 25's monthly newsletter, improperly promoted the candidacy of Frank Hackett, a candidate for International Vice-President from the Eastern Conference. It is also asserted that the July 1991 issue of The Spokesman also improperly promoted Mr. Hackett, as well as incumbent IBT President William J. McCarthy, and R.V. Durham, a candidate for International President.

Article VIII, Section 7.a. of the Rules For The IBT International Union Delegate And Officer Election (the "Election Rules") prohibit the use of Union-financed publications to "support or attack the candidacy of any person . . ." Article VIII,

Section 8.a. further provides that if a "candidate is permitted to have his/her campaign material published, all other candidates must be permitted the same opportunity on an equal basis" Article VIII, Section 7.a.(1)(a) prohibits the "use of a larger or more attractive picture of someone [in a Union publication] than had previously been used if that person is a candidate" The Election Rules also prohibit a Union publication from carrying "a substantial number of articles or pictures featuring a particular candidate, unless all candidates for the same position are given equal treatment, equal space and equal prominence." Article VIII, Section 7.a.(1)(d).

In the May 1991 issue of The Spokesman, an article appeared on the front page under the headline: "DELEGATES BACK HACKETT'S VP BID." The article reported that Local 25's delegates to the 1991 IBT Convention had "voiced support for Frank Hackett to be elected International Vice-President" In addition, the article reported that several delegates also stated that they would "back International Trustee candidate Robert DeRusha"

The July 1991 issue of The Spokesman included coverage of the 1991 IBT Convention. That issue contained Convention-related articles and pictures featuring incumbent IBT General President McCarthy. Also included was an article identifying all candidates nominated for General President and General Secretary-Treasurer and identifying, by name and slate affiliation, the five candidates who were elected to office at the Convention. However, of all the

nominees for International Vice-President positions, only Mr. Hackett was identified. The article featured Mr. Hackett in a headline and included a photograph of Mr. Hackett. Mr. Hackett's slate affiliation was also identified.

A two-page photo layout of the Convention was also included. Pictures of Mr. Hackett, as well as pictures of R.V. Durham and his supporters were included in this photo layout. Pictures of other candidates for General President were not included.

Lastly, the newsletter printed a picture of one of the International Trustees elected at the Convention -- Mr. DeRusha.

The Election Officer concluded that the May 1991 edition of The Spokesman violated the Election Rules because of the prominent front-page coverage of the Frank Hackett campaign for Vice-President in the absence of equal prominence to other candidates for International Vice-President from the Eastern Conference.

The Election Officer did not find, however, that the coverage of General President McCarthy in the July 1991 issue ran afoul of the Election Rules. Neither the articles nor the photographs regarding Mr. McCarthy in the July 1991 issue refer or make reference to the International Union officer election. Mr. McCarthy is not a candidate.

Similarly, the Election Officer did not find that the coverage given in the July 1991 edition to the nominated candidates whose election had already been certified, such as the election for International Trustees, to be violative of the Election Rules. The

Election Officer found that factual statements regarding the election simply do not violate the Election Rules.

The coverage given to Frank Hackett in the July 1991 issue, however, did not provide equal prominence to the other nominated candidates for International Vice-President from the Eastern Conference, and thus, the Election Officer found that coverage to be a violation of the Election Rules.

Similarly, the focus on Durham in the July issue and the failure of The Spokesman to provide equal treatment to the other two General President candidates, Carey and Shea, was also considered to violate the Election Rules.

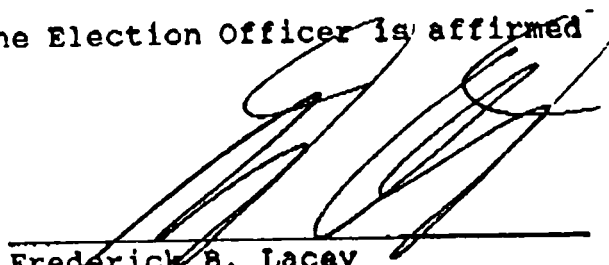
To remedy these violations, the Election Officer first directed Local 25 to grant equal coverage to all candidates for International Vice-President from the Eastern Conference by publishing in their October 1991 issue of The Spokesman campaign material of the other nominated candidates. In addition, the Election Officer directed Local 25 to grant equal coverage to General President candidates Carey and Shea by publishing in the October 1991 issue of the newsletter a picture of both and/or their supporters.

Local 25's raised several objections to the Election Officer's ruling. First, Local 25 argued that the Election Officer never conducted any investigation to find out why Local 25 featured Hackett and Durham in The Spokesman. It was argued that given the regional interest of The Spokesman, these articles and pictorials

were newsworthy. Under these circumstances, the Election Officer need not conduct an extensive investigation. The Election Officer certainly knows which candidates are running for which positions. In addition, the Election Officer thoroughly examined the May 1991 and July 1991 issues of The Spokesman. The coverage afforded the various candidates in those issues speak for themselves. The Election Rules plainly prohibit Union publications from carrying a "substantial number of articles or pictures featuring a particular candidate, unless all candidates for the same position are given equal treatment, equal space and equal prominence." It matters not that a particular candidate may be involved in a newsworthy event under these circumstances.

Local 25 also suggests that Mr. Nagle's protest was filed out of time. Beyond the naked suggestion, however, Local 25 does not provide any evidence to support the charge that the protest was filed late. Moreover, in the Election Officer's decision there is no mention or suggestion of a late filing.

Accordingly, the decision of the Election Officer is affirmed in all respects.



Frederick B. Lacey
Independent Administrator
By: Stuart Alderoty, Designee

Dated: September 18, 1991