

***PRE-ELECTION
PROTEST
DECISIONS***

ELECTION OFFICE CASE NOS.

P-836-LU639-MID to P-870-LU688-MOI

VOLUME XIX

***Michael H. Holland
Election Officer
June 1992***

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August 16, 1991

VIA UPS OVERNIGHT

J. Anthony Smith
6213 Tyner Street
Springfield, VA 22152

Phillip Feaster
President
IBT Local Union 639
3100 Ames Place, NE
Washington, DC 20018

Re: Election Office Case No. P-836-LU639-MID

Gentlemen:

A protest was filed pursuant to the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("*Rules*") by J. Anthony Smith, a member of Local Union 639. Mr. Smith contends that the July 1991 issue of Local 639's newspaper, "Local Vocal," violated the *Rules* by providing inappropriate coverage to the candidacy of Local 639's President Phillip A. Feaster for International Union Vice President for the Eastern Conference. Mr. Smith further contends that the July 1991 issue also provided inappropriate coverage to other International Union officer candidates who, like Mr. Feaster, are seeking office aligned with General President candidate R. V. Durham. Lastly, Mr. Smith contends that the newspaper failed to give coverage to the candidacy of Tom Sever for General Secretary-Treasurer, seeking that position as a member of General President candidate Ron Carey's slate, equal to the coverage afforded other nominated candidates for General Secretary-Treasurer.

Article VII, § 7(a) of the *Rules* prohibits a Union-financed publication or communication from being used to support or attack the candidacy of any person. The *Rules* thus provide that a Union newspaper or publication is not to:

- (a) use a larger or more attractive picture of someone than had previously been used if that person is a candidate, unless there is a valid journalistic reason for it;
- (b) print uncomplimentary pictures of any candidate;
- (c) print features and accompanying photographs about insignificant or unnewsworthy events in which the accomplishments or qualities or qualities of any candidate are heralded; or
- (d) carry 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.

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Accordingly, the Election Officer has determined that articles indicating that the Union publishing the newspaper, or newsletter, supports a particular candidate violates the *Rules*. Numerous articles in the same edition about a particular candidate is also violative of the *Rules* as is numerous photographs of the same candidate accompanying a single article. See Advisory on Union Publications, issued December 21, 1990.

The July issue of "Local Vocal" contains a column by both the Local President, Phillip Feaster, now a nominated candidate for International Union Vice President for the Eastern Conference, and Secretary-Treasurer John Catlett. These columns are a regular feature of each edition of "Local Vocal." While both columns discuss Mr. Feaster's candidacy for Vice President, the content of the columns make it clear that no endorsement of his candidacy is being made by Local Union 639. Further, both columns discuss Mr. Feaster's candidacy from a personal point of view, Mr. Feaster indicating his pride in being nominated and Mr. Catlett discussing his pleasure at having an officer of Local 639 be among the nominated candidates for International office.

Both columns also highlight one of the actions taken by the delegates at the 1991 IBT International Union Convention, the determination to sell the airplanes presently owned by the IBT. Both columns note that the proposal was made by Harold Leu and identify him as a candidate aligned with the General President candidacy of R. V. Durham. The reports are factual. Reporting on one action taken at the 1991 IBT Convention does not violate the *Rules* merely because other decisions made at the Convention are not similarly reported.

Neither does the content of the lead article of the July 1991 issue of "Local Vocal" violate the *Rules*. That article, reporting on the nominations made at the 1991 IBT International Union Convention, lists all candidates nominated for International Union officer positions. It is accompanied by three photographs, one of the supporters of the General President candidacy of Ron Carey, one of the supporters of the General President candidacy of R. V. Durham, and one of the supporters of the General President candidacy of Walter Shea. All photographs are the same size; all contain campaign posters; the photograph of the Carey supporters is in the left-hand or first position. That the article fails to note the Local Union affiliation or office of General Secretary-Treasurer candidate Tom Sever does not denigrate his candidacy or the candidacy of the General President candidate with whom he is associated. The omission is insufficient to constitute a violation of the *Rules*.

Neither does the fact that Mr. Feaster's nomination as a candidate for International Vice President is highlighted in the article constitute a violation of the *Rules*. Mr. Feaster is the President and chief executive officer of Local 639. The Election Officer is cognizant that local events - and thus candidacies of Local Union officers and

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members - may understandably given more prominence in Local Union publications than news of events which do not concern or involve the Local Union, its officers or members. The article reports on all other nominated candidates. The article is accompanied by photographs relating to the candidacies and campaigns of all three IBT members nominated for General President. The emphasis given Mr. Feaster's candidacy under these circumstances do not constitute a violation of the *Rules*.

In addition to its coverage of the events at the 1991 IBT International Union Convention, the July 1991 issue of "Local Vocal" also contains a pictorial article about Local members employed at Safeway. Among the pictures are two of President Feaster, the captions under each picture identify him as a candidate for IBT Vice President and indicate that he is being congratulated on his nomination by the Local 639 member pictured with him.

Under the *Rules*, a Union publication will be deemed to have given improper campaign support to a particular candidate where it published pictures or articles reporting on the activities of that candidate where the same or similar activities for other candidates for the same office have not been similarly reported. See Advisory on Union Publications, December 21, 1990. The pictures of Mr. Feaster are not contained in any article relating to the Convention. Mr. Feaster is pictured twice and his candidacy is mentioned in both captions. No other picture nor no other article in the July issue of the "Local Vocal" reports on the campaign activities of any other International Union officer candidate. Accordingly, these pictures of Mr. Feaster, coupled with the captions under that picture, contained in the pictorial article on the membership employed at Safeway, thus constitute improper support by a Union publication in violation of the *Rules*.

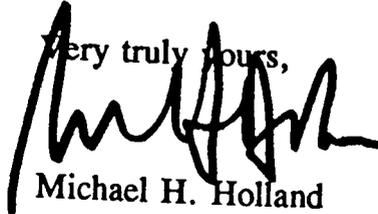
The protest is GRANTED to the extent noted above. Local Union 639 and its publication, "Local Vocal," are ordered to cease and desist from publishing further pictures reporting on the activities of International Union Vice President candidate Phil Feaster in future editions of the newspaper, unless similar coverage is granted to other candidates for the Vice President position Mr. Feaster is seeking.

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,

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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
Grant Crandall, Regional Coordinator