

OFFICE OF THE ELECTION OFFICER  
% INTERNATIONAL BROTHERHOOD OF TEAMSTERS  
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Washington, DC 20001

Michael H. Holland  
Election Officer

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October 22, 1991

**VIA UPS OVERNIGHT**

Chris Scott  
c/o R. V. Durham Unity Team  
508 Third Street, N.E.  
Washington, D.C. 20002

Teamsters for a Democratic Union  
c/o Paul A. Levy, Esquire  
Public Citizen Litigation Group  
2000 P Street, N.W.  
Suite 700  
Washington, D.C. 20036

**Re: Election Office Case No. P-961-IBT**

Gentlemen:

A protest was filed pursuant to Article XI, § 1 of the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("Rules") by Chris Scott on behalf of the R. V. Durham Unity Team. Mr. Scott contends the Teamsters for a Democratic Union ("TDU"), a Union membership caucus and an independent committee, violated the *Rules*. Mr. Scott states two specific objections: (1) he complains that the listing of expenditures on the Campaign Contribution and Expenditure Report filed by TDU is deficient in that it fails to list actual disbursements for activities such as the publication of the Convoy Dispatch; and (2) he asserts that TDU, based on the report it filed, accepted contributions from two persons that he contends are employers.<sup>1</sup>

The standards for campaign contributions and expenditures are defined under paragraph 8 of the consent order, Article X of the *Rules* and the Advisory on Campaign Contributions and Disclosure, issued August 14, 1991. Mr. Scott's complaint as to the expenditure listing of the Report presupposes an obligation to allocate and characterize disbursements of the organization to identifiable programmatic activities such as the publication, Convoy Dispatch.

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<sup>1</sup> Mr. Scott generally avers that TDU accepted contributions from employers, Other than the two individuals discussed in this opinion, Mr. Scott provided no specific names or other information. With three exceptions, all contributors itemized on TDU's report are IBT members and thus permitted to make campaign contributions. *Rules*, Article X, §1(b)(5). One of the three is unemployed and thus is not prohibited from making campaign contributions. The remaining two persons are the subject of this decision.

The Advisory on Campaign Contributions and Disclosure, at part B.3.a., page 32, specifically details reporting requirements for expenditures. It requires that the Report cover ". . . all campaign contributions and expenditures for the reporting period." While the reporting form requires the purpose for the expenditure to be recorded, there is no requirement that the purpose be further delineated by the specific programmatic activity. TDU's report indicates expenditures for printing and identifies the vendor; there is no obligation for it to identify which printing costs or what portions of its printing expenditures were utilized for printing Convoy Dispatch. Similarly with respect to other costs likely to be associated with newspaper publication and distribution, e.g. postage, shipping, TDU is not obliged to specify the portion spent with respect to Convoy Dispatch.

The Report has been examined and properly lists all expenditures made during the reporting period. Accordingly, this aspect of the protest is DENIED.

Mr. Scott objects to contributions made by Susan Jennik in the amount of \$175.00 and Carrol Keffer in the amount of \$185.00. TDU's report lists both Ms. Jennik and Mr. Keffer as contributing the specified amounts. Article X, § 1(b) of the *Rules* prohibits "employers" from contributing anything to a candidacy. An employer is more specifically defined in the Advisory on Campaign Contributions and Disclosure, August 14, 1991, at part A.2. The Advisory states that the Election Officer will define as an employer or employer representative "any person who acts as an agent of an employer with respect to an employee" Advisory at page 11.

The facts as to the employment relationship of Susan Jennik and Carrol Keffer were investigated by Regional Coordinators Amy Gladstein and Donald Twohey and the Washington, D.C. office of the Election Officer. The findings of the investigations are as follows:

#### **Susan Jennik**

Susan Jennik is an attorney who is employed as Executive Director of the Association for Union Democracy (AUD). Notwithstanding Ms. Jennik's title, AUD has only one employee and Ms. Jennik's authority over the wages, hours and working conditions of that employee are insufficient to establish the requisite managerial or supervisory authority. Discretionary authority exercised by Ms. Jennik in her position reflects the application of her professional skills as an attorney. The Advisory at page 12 provides that "[a]n employee who has professional skills will not be considered a managerial employee merely because of the exercise of the discretion inherent in his/her profession in the performance of his/her job."<sup>2</sup>

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<sup>2</sup> Ms. Jennik has submitted evidence to the Election Officer showing that her contributions to TDU were made on an individual basis, based upon her past association as staff counsel with TDU or TRF and not at the behest of AUD. It is contended that

Additionally, the Election Officer has previously found Ms. Jennick to be an individual entitled to make election campaign contributions. See Election Office Case No. P-249-LU283-MGN, affirmed 91-Elec. App.-158. There has been no change in her employment situation since that time requiring a reversal of that determination.

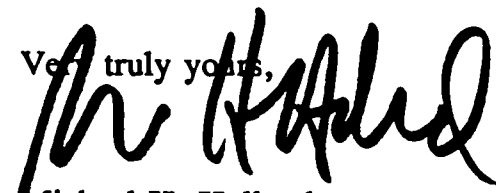
**Carrol Keffer**

Mr. Keffer is employed as a business agent affiliated with the Service Employees International Union (SEIU), AFL-CIO. He does not supervise or manage any employees. The Advisory at part B(3) at page 17 states that: "individual members, staffers or officers of . . . labor organizations, if not otherwise employers as defined herein, may make personal campaign contributions, so long as no funds of the organization are included in the contribution." The investigation established that the \$185 contribution was made with personal funds of Mr. Keffer.

Accordingly the protest as to the contributions made by Susan Jennik and Carrol Keffer are DENIED.

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,



Michael H. Holland

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under these circumstances she would be a permitted campaign contributor even if she were found to be a supervisor or manager. See Advisory at page 13. However in view of the Election Officer finding that Ms. Jennik does not qualify as a supervisor or a manager, it is unnecessary to determine this issue.

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Chris Scott  
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cc: Frederick B. Lacey, Independent Administrator

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MHH/cb