

OFFICE OF THE ELECTION OFFICER  
% INTERNATIONAL BROTHERHOOD OF TEAMSTERS  
25 Louisiana Avenue, NW  
Washington, DC 20001  
(202) 624-8778  
1-800-828-6496  
Fax (202) 624-8792

Michael H. Holland  
Election Officer

Chicago Office:  
% Cornfield and Feldman  
343 South Dearborn Street  
Chicago, IL 60604  
(312) 922-2800

November 14, 1991

**VIA UPS OVERNIGHT**

Anthony DelGallo  
3174-A Lydius Street  
Schenectady, New York 12303

Howard Bennett  
President, IBT Local Union 294  
890 Third Street  
Albany, New York 12206

Re: Election Office Case No. P-1042-LU294-PGH

Gentlemen:

A protest was filed pursuant to the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("Rules") by Anthony DelGallo, a member of Local Union 294. In his protest, Mr. Delgallo complains that he was removed as Warden and Conductor (Sergeant at Arms), of Teamsters Local 294 as a result of his support for and identification with the Ron Carey Partnership Slate.

The protest was investigated by Regional Coordinator William Kane. The investigation revealed the Mr. DelGallo was appointed as a Sergeant at Arms or Warden and Conductor of Teamsters Local 294 approximately nine years ago. ~~His appointment was made by a prior President who was then the principal executive officer of the Local, Nicholas Robitelli.~~ The By-Laws of Local 294 provide in § 12(b) that a Warden and Conductor may be appointed by the Chair and also may be removed by the Chair. Chair, as used in the By-Laws, refers to the principal executive officer of the Local, the person who chairs membership meetings. By letter dated October 29, 1991, Howard Bennett, the current President and Principal Executive Officer of the Executive Board removed Mr. Delgallo from his appointed position as Warden and Conductor. Mr. Bennett states that Mr. DelGallo was removed from his position as Warden and Conductor due to his unauthorized referral for employment of a Local Union 294 member, Anthony Civitello, who was convicted of, and is presently still on probation for, embezzlement of Teamster members' funds.

---

<sup>1</sup> Mr. Robitelli subsequently pleaded guilty to tax evasion in a plea agreement dismissing 42 counts of misuse of Union funds in exchange for his guilty plea and agreement not to seek Local Union office.

Anthony DelGallo  
November 14, 1991  
Page 2

Mr. DelGallo is employed by and a job steward at the General Dynamics Company, Electric Boat Division ("Electric Boat") facility in Kesselring, New York. The collective bargaining agreement between Local 294 and Electric Boat provides that Local 294 has the right to refer potential employees to Electric Boat when positions became available; however, the company does not have an obligation to hire those members so referred. Sometime in late June or early July of 1991, Electric Boat advised Mr. DelGallo in his capacity as the job steward that four bargaining unit positions would soon be available for new hires. The normal practice followed by Mr. DelGallo when notified of the availability of open positions at Electric Boat is to consult with the Local Union Business Agent John Bulgaro about whom they should refer. In this instance, however, Mr. DelGallo did not consult with John Bulgaro, but unilaterally referred four people to Electric Boat for it to hire; one of the four referred by Mr. DelGallo was Anthony Civitello.

During the course of a conversation with Electric Boat, Mr. Bulgaro was told of these referrals by Mr. DelGallo. By letter dated July 10, 1991, Mr. Harper, Manager of Human Resources for Electric Boat, requested that Local 294 confirm that the Local was in fact recommending that Electric Boat hire the four individuals referred by Mr. DelGallo. By letter dated July 16, 1991, Mr. Bulgaro notified Mr. Harper that Local 294 was not recommending Mr. Civitello for employment based on his prior conviction for embezzlement, his continued probation for that offense, and his failure to make complete restitution to Teamster members.<sup>2</sup> Mr. Bulgaro noted in his letter that Electric Boat was free to hire whoever it wished for the open positions but reiterated that the Local did not recommend the employment of Mr. Civitello.

Mr. Civitello filed an unfair labor practice charge with the National Labor Relations Board ("NLRB") against Local 294 for failing to refer him for employment at Electric Boat. The NLRB dismissed the charge, finding that although the Union did not recommend his hire, the Union's actions were related to legitimate considerations not proscribed by the National Labor Relations Act.<sup>2</sup>

Mr. Bennett states that upon receipt of the NLRB determination in August of 1991, he decided that Mr. DelGallo should no longer hold the appointment as Warden and Conductor. However, he did not act to remove him at that time due to the pendency of the Local Union officer election in which Mr. DelGallo was a candidate for Local Union Vice-President. After the conclusion of the Local Union election, which resulted in Mr. DelGallo's defeat, Mr. Bennett removed him as Warden and Conductor.

---

<sup>2</sup> It should be noted that Electric Boat also advised the NLRB that based upon Mr. Civitello's record and the fact that he remained on probation, it would be difficult to obtain a security clearance required of employees having access to the site where Mr. Civitello was seeking employment.

Anthony DelGallo  
November 14, 1991  
Page 3

Mr. DelGallo contends that there was no reason for him not to recommend Anthony Civitello for a job with Electric Boat. Mr. Civitello is a dues-paying member of the Local who regularly attends Local Union meetings. Mr. DelGallo believes that Mr. Civitello deserves an opportunity to obtain employment.

Mr. DelGallo was nominated as a candidate for Vice President of Local Union 294 in September of 1991. Shortly thereafter he challenged the eligibility of the incumbent Vice President Bernie Horn. Mr. Horn was ultimately found ineligible to hold that office.

Mr. DelGallo also preferred internal Union charges against the Local 294 officers in October of 1991 concerning alleged misuse of strike funds in connection with a strike at Palette Stone Company. The charges implicate Larry Yevoli, the successful candidate for Local Vice-President in the recent Local Union officer election.

While campaigning for Local Union Vice President, Mr. DelGallo identified himself as a "Carey candidate." He has also expressed support for the candidacy of Ron Carey for General President by distributing Carey campaign literature and wearing Carey campaign buttons. Although in his protest Mr. DelGallo indicates that he believed that his support of Ron Carey caused his removal as Warden and Conductor, during the investigation of the protest, he advised the Regional Coordinator that he believed he was removed from that position due to his challenge to the eligibility of Mr. Horn to serve as Local Union Vice President. Mr. DelGallo stated that although Mr. Bennett and the other Local 294 officers do not support Ron Carey, he no longer believes that they removed him as Warden and Conductor because Mr. DelGallo was a supporter of Mr. Carey. At present, Mr. DelGallo remains a shop steward at Electric Boat, a position he has held for approximately 20 years.

Article VIII, § 10(a) of the *Rules* grants to all Union members the right to participate in Union campaign activities including the right to run for Union office, to openly support or oppose any candidate, to aid or campaign for any candidate and to make personal campaign contributions. Implicit in that right is the right to remain free from adverse action by the Local Union in retaliation for support given to any International Union officer candidate.

By Mr. DelGallo's own statement, his removal as Warden and Conductor or Sergeant at Arms was not based on his support of Ron Carey or any other candidate for International Union office. Instead, according to Mr. DelGallo, his removal was in retaliation for his activities in the recent Local Union officer election. The jurisdiction of the Election Officer is limited to the International Union officer election and any activities or conduct that implicates the International officer election; the Election Officer

Anthony DelGallo  
November 14, 1991  
Page 4

has no jurisdiction over Local Union officer elections or activities or conduct which implicate or impact upon such subordinate body elections. *Rules, Preamble at pp. 1-2.* The Election Officer's investigation of this protest does not disclose any facts which implicate or impact upon the International Union officer election. Accordingly, the Election Officer does not have jurisdiction to determine Mr. DelGallo's protest.

Even assuming that Mr. DelGallo persisted in his original statement that his removal as Warden and Conductor was due to his campaign activities on behalf of Mr. Carey, the Election Officer does not find any support for that allegation. Based on his investigation, the Election Officer finds that Mr. Bennett removed Mr. DelGallo because Mr. Delgallo recommended that Electric Boat hire Mr. Civitello. After being found guilty of embezzling money which belonged to Union members, it is understandable why the Local would not want to recommend Mr. Civitello for employment and would not countenance its officers and agents making such recommendation. The Local cannot legally prevent Mr. Civitello from obtaining employment, however that does not mean that the Local must recommend Mr. Civitello for employment.<sup>3</sup> Accordingly, the protest is 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

MHH/ca

---

<sup>3</sup> Indeed, if Mr. Civiletto sought employment with the Union, his hire would violate the Labor-Management Reporting and Disclosure Act.

**Anthony DelGallo**  
**November 14, 1991**  
**Page 5**

**cc: Frederick B. Lacey, Independent Administrator**  
**William B. Kane, Regional Coordinator**

---

IN RE:	:	91 - Elec. App. - 234 (SA)
	:	
ANTHONY DELGALLO	:	
	:	
and	:	DECISION OF THE
	:	INDEPENDENT ADMINISTRATOR
HOWARD BENNETT	:	
IBT LOCAL UNION NO. 294	:	

---

This matter arises as an appeal from the Election Officer's decision in Case No. P-1042-LU294-PGH. A hearing was held before me by way of teleconference at which the following persons were heard: Anthony DelGallo, the Complainant; William Kane, a Regional Coordinator; Howard Bennett, the President of Local 294; and John J. Sullivan, for the Election Officer. In addition, the Election Officer submitted a written summary in accordance with Article XI, Section 1.a.(7) of the Rules for The IBT International Union Delegate and Officer Election (the "Election Rules").

The Complainant, Mr. DelGallo, is a member of IBT Local Union 294. He also serves as a Job Steward. He claims that in October of this year he was removed from his position as a "Warden and Conductor" (Sergeant-at-Arms), of Local 294 in retaliation for his open and visible support for the candidacy of Ron Carey for International General President. Contrary to Mr. DelGallo's allegations, the Election Officer found that the Local had removed him from his position because of his unauthorized and ill-advised employment referral of a Local 294 member who was convicted and

imprisoned for embezzling the funds of IBT members. The facts underlying this matter are uncomplicated.

A division of the General Dynamics Company, Electric Boat, employs Local 294 members. Pursuant to its collective bargaining agreement, Local 294 has the right to refer Local 294 members to Electric Boat for employment when positions become available. Normally, Mr. DelGallo, in his capacity as a Local 294 Job Steward, would consult with John Bulgaro, the Local's Business Agent for Electric Boat, concerning which individuals to refer when vacancies become available. Electric Boat ultimately retains the right to reject any individuals referred.

In late June or early July of 1991, Mr. DelGallo was advised that four positions would soon be open for new hires at Electric Boat. Apparently, Mr. DelGallo was unable to reach Mr. Bulgaro for consultation and unilaterally referred the four individuals to Electric Boat for hiring. One of the individuals referred by Mr. DelGallo was Anthony Civitello, a member of Local 294 who had been convicted and imprisoned in 1986 for embezzling employee benefit funds from fellow IBT members. At the time of Mr. DelGallo's referral, Mr. Civitello was on probation, regularly attending Local Union meetings and paying his dues. According to Mr. DelGallo, Mr. Civitello has paid his debt to society and deserves a chance to work and earn a living like any other IBT member.

In addition, Mr. Del Gallo states that Mr. Bulgaro never warned him against referring Mr. Civitello for work when the subject was previously raised. The Local counters this by noting



that Mr. Bulgaro must ultimately make the decision, as Business Agent, as to which Local members will be referred for employment and thus, there was never a need to warn Mr. DelGallo against referring anyone in particular. In other words, while Mr. DelGallo may have raised Mr. Civitello's name with Mr. Bulgaro in the past, Mr. Bulgaro may not have highlighted the fact that Mr. Civitello should not be referred since he knew in his own mind that he would never refer Mr. Civitello for employment.

When Mr. Bulgaro learned that Mr. DelGallo had referred Mr. Civitello for work at Electric Boat, Mr. Bulgaro immediately advised Electric Boat that the Local did not recommend Mr. Civitello and highlighted Mr. Civitello's past conviction and subsequent failure to make restitution to IBT members. Electric Boat ultimately declined to hire Mr. Civitello.

Subsequently, Mr. DelGallo was removed from his position as Warden and Conductor with the Local.

It is clear that the Election Rules guarantees the right of all Local Union members to openly support or oppose candidates for International Union office of their choice without fear of intimidation or retaliation. Election Rules, Article VIII, Section 10. The Election Officer, however, was unable to find that Mr. DelGallo was removed from his position because of his support for Carey. Indeed, as the Election Officer highlights in his decision, by Mr. DelGallo's own admission, he believed his removal was the result of his activities in the recent Local Union elections. Mr. DelGallo stated as much to Mr. Kane, a Regional Coordinator with

the Election Officer, during the Election Officer's investigation of the matter. Moreover, in a November 7, 1991, letter to the Independent Administrator, Mr. DelGallo himself wrote that he believed he was removed from his position as Sergeant-at-Arms for activity connected with the Local Union elections.

I agree with the Election Officer's finding. There is nothing in the record to suggest that Mr. DelGallo was removed from his position because of his International officer election politics. To conclude otherwise would be to ignore Mr. DelGallo's own statements to the Regional Coordinator and to the Independent Administrator.

Accepting Mr. DelGallo's original statements as to the reason for his removal, it is clear that the Election Officer has no jurisdiction over this matter. As the Preamble to the Election Rules makes clear:

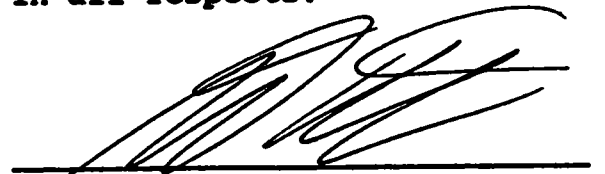
The Election Officer's authority . . . is limited to the nominations and elections of International Convention delegates and International Officers. These rules are thus not applicable, nor intended to apply, to the elections for IBT subordinate body officers.

Even examining this matter in light of Mr. DelGallo's new-found allegation that he was removed because of his support for Carey, the Election Officer still acted properly in denying Mr. DelGallo's protest.

The record here indicates that the Local's removal of Mr. DelGallo from his position was indeed prompted by his referring Mr. Civitello for work to Electric Boat, not because of his ties to Carey. As the Local's attorney highlighted at the hearing, the

Investigations Officer had previously brought charges against seven officers of Local 294 for failing to investigate an embezzlement of Local Union funds in 1988. These charges were eventually resolved by agreement with the seven charged officers agreeing to personally pay over \$18,000 to the Local's general fund. That agreement was approved by Judge David N. Edelstein at or about the time that Mr. DelGallo had referred Mr. Civitello for work. Given the Investigations Officer's charges and the ultimate resolution of those charges, the Local was, and continues to be, extremely sensitive to its handling of all matters involving persons such as Mr. Civitello.

For the foregoing reasons, the Election Officer's denial of Mr. DelGallo's protest is affirmed in all respects.



---

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

Dated: November 25, 1991