



OFFICE OF THE ELECTION OFFICER
% INTERNATIONAL BROTHERHOOD OF TEAMSTERS
25 Louisiana Avenue, NW
Washington, DC 20001

Michael H. Holland
Election Officer

(202) 624-8778
1-800-828-6496
Fax (202) 624-8792

November 21, 1991

VIA UPS OVERNIGHT

Gary Clark
270 Kerry Lane
Highland, MI 48031

James F. Esser
President, IBT Local Union 243
2741 Trumbull Avenue
Detroit, MI 48216

Leon Cooper
Vice President, IBT Local Union 243
2741 Trumbull Avenue
Detroit, MI 48216

Re: Election Office Case No. P-1082-LU243-MGN

Gentlemen:

A protest was filed pursuant to the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("Rules") by Gary Clark, a member of Local Union 243. Mr. Clark contends that on November 11, 1991 Leon Cooper, Vice President and Business Agent for Local 243, threatened Dave Pratt, a supporter of the Ron Carey Partnership Slate, while Mr. Pratt was campaigning at the United Parcel Service ("UPS") facility located in Madison Heights, Michigan.

This protest was investigated by Regional Coordinator Jim DeHaan. The investigation revealed that on November 11, 1991, Gary Clark and Leon Cooper were campaigning at the entrance to the UPS facility in Madison Heights, Michigan for IBT General President candidates Ron Carey and R. V. Durham respectively. Both Mr. Clark and Mr. Cooper were distributing campaign literature.

Mr. Cooper left his position in front of the UPS facility to get a pair of gloves from his car. Mr. Cooper, while at his car, saw a man approaching the entrance of the UPS facility who he thought was an IBT member employed by UPS; he offered this individual campaign literature. This individual declined the literature using--according to Mr. Clark--derogatory and profane language. Mr. Cooper then observed this individual, later identified as "Dave," i.e., Mr. Pratt, approach Mr. Clark and hand him a box of what was later determined to be Ron Carey literature.

Gary Clark
November 21, 1991
Page 2

Mr. Cooper subsequently asked Mr. Pratt for a copy of the literature. Mr. Pratt refused, which angered Mr. Cooper. Mr. Clark and Mr. Pratt both agree that Mr. Cooper then approached Mr. Pratt, shook a finger in his face and told him that he'd remember him someday when it would just be Mr. Pratt and himself one-on-one. Mr. Cooper then told Mr. Pratt his name; he asked Mr. Pratt for his name; Mr. Pratt told him "Dave," but refused to give his last name. Mr. Cooper made some derogatory remarks as to Mr. Pratt's parentage, stating that he would make a great UPS supervisor.

Thereafter, Mr. Clark gave a copy of the Carey literature to Mr. Cooper; Mr. Cooper reciprocated, giving a copy of the Durham literature to Mr. Clark. Mr. Clark and Mr. Pratt remained at the UPS entrance campaigning until Mr. Clark had to leave to report for work at his own UPS terminal. While Mr. Pratt remained and campaigned after his exchange with Mr. Cooper, he left when Mr. Clark did. Mr. Pratt states that he also left at that time as he felt threatened by Mr. Cooper and did not wish to remain.

Article VIII, § 10 of the *Rules* provides that all Union members retain the right to participate in campaign activities including the right to support or oppose any candidate or to aid or campaign for any candidate. Implicit in that right is the right to engage in campaign activity free from threats or intimidation.

Based upon the investigation of this protest the Election Officer determines that Mr. Cooper did threaten and intimidate Mr. Pratt. However, the Election Officer also determines that the verbal threat was made in a moment of anger occasioned--at least in part--by Mr. Pratt's previous actions and statements. Further, once the exchange concluded both Mr. Clark and Mr. Pratt continued to campaign until Mr. Clark was scheduled to leave the Madison Heights, Michigan UPS site. Moreover, there is no evidence that any other IBT member witnessed the incident, chilling them in their exercise of their rights under the *Rules*.

Based on the foregoing, the Election Officer finds that the *Rules* have been violated by Mr. Cooper. Mr. Cooper is ordered to cease and desist from making such statements, or like related statements to any individual based upon his/her support--or failure to support--any candidate for IBT International Union office. Given the circumstances surrounding this incident--particularly including the provocative behavior and statements by Mr. Pratt--the Election Officer declines to direct any further remedy at this time. Mr. Cooper is hereby notified, however, that any proven violations of the foregoing cease and desist order will result in the imposition of the most severe sanctions, including referral to the United States Attorney for the Southern District of New York for institution of contempt proceedings.

Gary Clark
November 21, 1991
Page 3

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

cc: Frederick B. Lacey, Independent Administrator

James DeHaan, Regional Coordinator

Ron Carey
c/o Richard Gilberg, Esquire
Cohen, Weiss & Simon
330 West 42nd Street
New York, NY 10036-6901

R. V. Durham
c/o Hugh J. Beins, Esquire
Beins, Axelrod, Osborne
& Mooney
2033 K Street, NW
Suite 300
Washington, DC 20006-1002

Gary Clark
November 21, 1991
Page 4

Walter Shea
c/o Robert Baptiste, Esquire
Baptiste & Wilder
1919 Pennsylvania Avenue, NW
Suite 505
Washington, DC 20006