

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

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Election Officer

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November 21, 1991

**VIA UPS OVERNIGHT**

Lee Scott  
111 Bryant St.  
Longview, TX 75601

T. C. Stone  
Secretary-Treasurer  
IBT Local Union 745  
1007 Jonelle St.  
Dallas, TX 75217

A. L. Dunnivant  
P.O. Box 12227  
Gladewater, TX 75647

**Re: Election Office Case No. P-1092-LU745-SOU**

Gentlemen:

A protest was filed pursuant to Article XI of the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("*Rules*") by Lee Scott, a member of IBT Local Union 745 located in Dallas, Texas. Mr. Scott complains about a confrontation with A. L. Dunnivant, Local 745's steward at the Stroh Brewery in Longview, Texas, where both are employed. This protest was investigated by Adjunct Regional Coordinator Taylor Hart.

In his protest, Mr. Scott alleges that Mr. Dunnivant tore down campaign literature which he had posted on bulletin boards and threatened him because of his campaign activity on behalf of General President candidate Ron Carey and the other candidates on the Ron Carey slate and against T. C. Stone, Local 745's Vice-President who is an independent candidate for Southern Conference Vice-President.

Investigation discloses that campaign leaflets supporting T. C. Stone's candidacy were posted on several bulletin boards at the Stroh Brewery; these bulletin boards are enclosed in glass. Mr. Scott also had a copy of T. C. Stone's leaflet which he defaced

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by writing and marking on the leaflet so as to indicate his opposition to T. C. Stone.<sup>1</sup> On November 13, 1991, at 7:15 a.m., Scott taped copies of this defaced leaflet to the glass cover of the bulletin boards.<sup>2</sup> Thus, the bulletin boards contained two copies of the same T. C. Stone leaflet--one behind the glass and the second, with Scott's notations and markings, taped to the front.<sup>3</sup> Scott also taped a leaflet supporting Ron Carey to the glass covering the bulletin boards. Sometime during the morning, Scott noticed that the leaflets were gone, so he posted another set.

Later, during the employee lunch break at 11:30 a.m., there was a confrontation between Scott and Dunnivant. Dunnivant tore down the defaced T. C. Stone leaflet from the bulletin board in the employee breakroom. Although the Carey leaflet was also taken down, Dunnivant denied being responsible. He also criticized whoever had posted this material to the employees in the lunchroom. Scott stated that he had posted the material, that he had a right to post the material, and got another copy of both leaflets which he again taped to the glass cover of the bulletin board. Then, Dunnivant said, "Now we know who the \*\*\* is" and asked Scott to, "Come into the locker room and let's get it on." Scott did not answer and did not go into the locker room.

Dunnivant admits having removed the defaced Stone literature. He acknowledges that Scott has the right to post pro-Carey literature, but he believes that Scott does not have the right to post T. C. Stone literature which Scott has defaced.

IBT members have the right to campaign for or against candidates for International office in the IBT. *Rules*, Article VIII, §10(a). Using an opponent's campaign leaflet, but adding questions or comments, as Scott did, is not prohibited by

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<sup>1</sup> On the top of the leaflet, Scott wrote, "Have you ever seen" with an arrow pointing to the name T. C. Stone in the letterhead, adding a question mark after the name. Using a magic marker, Scott crossed out the sentence which says, "I am the only candidate who cares about you" and added the word "No" in pen. Over the three paragraphs which ask members to vote for T. C. Stone, Scott wrote in large letters, "Not me." Scott marked out the last paragraph of the letter which mentioned the format of the ballot and crossed out T. C. Stone's signature.

<sup>2</sup> Scott did not request that Dunnivant post the literature on the bulletin boards, i.e., behind the glass.

<sup>3</sup> It is undisputed that Mr. Scott did not deface the T. C. Stone leaflet which had already been posted.

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the *Rules*. Scott did not deface the literature which had previously been posted which would have violated the *Rules*. Rather, he posted a second copy with, in his view, appropriate questions about candidate T. C. Stone. The second copy is easily understood by any observer as having been marked by an opponent of Mr. Stone. Scott has just as much right to post this anti-Stone leaflet as he does to post the pro-Carey leaflet.

Thus, when Dunnivant tore down this anti-Stone leaflet, he violated the *Rules*. Accordingly, the Election Officer directs Mr. Dunnivant to cease and desist from tearing down any literature which Mr. Scott or any other IBT member has posted, including literature which criticizes T. C. Stone or any other International Union officer candidate, whether by marking or writing on leaflets, i.e. defacing leaflets, supporting such candidate or otherwise.

Dunnivant denies having torn down the Ron Carey leaflet posted by Scott. In any event, the leaflet did not remain unposted for long; replacements were easily found and the leaflet reposted. In view of these circumstances, the Election Officer denies this aspect of Scott's protest.

With respect to the alleged threat, the Election Officer finds that Dunnivant did make the comment attributed to him--namely, "Come into the lockerroom and let's get it on." Although Scott viewed this as a threatening statement, other IBT members who heard the comment did not. Dunnivant says that his intention was to discuss the matter privately with Scott, without all of the employees in the breakroom participating. The words themselves are not unambiguous. Further, the words were uttered during the course of an argument between two individuals who have disliked each other for years.<sup>4</sup> Even if one construes the words as a threat to fight, nothing happened--Scott simply ignored the comment. In view of all of these circumstances, the Election Officer denies this aspect of Scott's protest. The Election Officer, however, cautions Dunnivant and all other members of Local 745 that threatening, intimidating or harassing another member based on partisan political positions or activity in the 1991 IBT International Union office election constitutes a gross violation of the *Rules* and will be dealt with accordingly.


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

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<sup>4</sup> Investigation discloses that there has been animosity between Scott and Dunnivant long pre-dating the current IBT election campaign and arising from personal matters having nothing to do with the Union.

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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/mjv

cc: Frederick B. Lacey, Independent Administrator

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