

Dan S. Gage
November 26, 1991
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The letter was distributed at a membership meeting of Local Union 174 held on Thursday, November 14th. The letter was passed out at the door to the meeting both before and after the meeting, and copies were placed on the chairs of the meeting room before the meeting started. Mr. Tim Sullivan, a member of Local Union 174, passed out the letter. He states that he received the letter "anonymously" and never thought to check its authenticity. Tim Sullivan made copies of the letter himself. Although Tim Sullivan is related to current and former officials of Local 174, he holds no position with Local 174 and states that he acted completely on his own in distributing the letter at Local 174's monthly meeting.

On November 27, 1991, the letter was also posted on the company board at the Tacoma, Washington facility of ABF, the location where Mr. Gage works. However, the notice remained posted at that facility for less than one day. The Election Officer has been unable to determine who posted the notice.

There is no evidence showing a wider distribution of the letter beyond the Local 174's November 14, 1991 monthly meeting and the ABF posting. The letter has not apparently been distributed among members of Local Union 313, the Local of which Gage is a member, other than its posting at ABF. The letter also has not been distributed among the employees of West Coast Grocery, even though the letter is ostensibly addressed to those members.

Although the Election Officer has frequently stated that he will refrain from policing the contents of campaign literature, the protest here, dealing with a forged document, requires a different analysis. With unforgerd campaign materials, the membership is aware that the statements reflect a partisan position and can base their judgements accordingly. Where the material is forged, however, IBT members are deprived of their ability to recognize propaganda for what it is and thus are deprived of their ability to evaluate it properly and the Election Officer is obliged to intervene. Similarly, the National Labor Relations Board has adopted different standards for treating normal campaign propaganda as opposed to statements which are fraudulent or designed to trick the voter, such as the forgery here, imposing more stringent remedies for the latter. Heintz Division, Kelsey-Hayes Co., 126 NLRB 151 (1960); Midland National Life Insurance Co., 263 NLRB 127 (1982); SCD Investments, Inc., 274 NLRB 557 (1985); see also North American Directory Corp. v NLRB, 939 F.2d 74 (3rd Cir. 1991).

The Election Officer is obliged to rectify the effects of the forgery, to notify IBT members who have received the document in question that it is a forgery. In this case, there is no evidence that Local Union 174 or Local Union 313 was responsible for the forged document. The document was clearly distributed to IBT members who attended Local 174's monthly meeting. Therefore, the Election Officer will immediately send by

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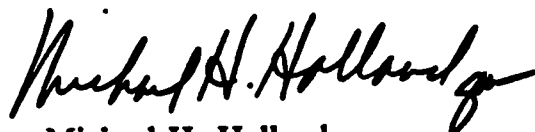
first class mail a notice, a copy of which is attached, to those members notifying them that the material they received was forged. To enable the Election Officer to do so, Local 174 prior to noon, E.S.T. on November 29, 1991 shall provide to the Election Officer the names, addresses and social security numbers of all members attending the November 14, 1991 membership meeting.

While the material appears to have been distributed only to the members who attended Local 174's membership meeting and by being posted on the bulletin board at one facility where Local 313 members work, there is no way to determine whether the fraudulent information conveyed to the members attending the meeting or seeing the posting at ABF was further disseminated either by oral communications or by further distribution by them of the written document they received. Accordingly, particularly given the ongoing nature of the IBT International Union officer election, Local 313 and 174 are also directed to post a copy of the notice on all bulletin boards at their offices and at all worksites where their members work. The notice is to be posted within two days of the date of this decision; within three days of the date of this decision, Local 313 and Local 174 shall each file an affidavit with the Election Officer demonstrating compliance with this posting requirement.

An appeal of this decision shall not operate to stay the Election Officer's remedies or the Local's obligations to post. *Rules*, Article X, § 2(z).

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/cb

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cc: Frederick B. Lacey, Independent Administrator
Christine M. Mrak, Regional Coordinator

**NOTICE TO TEAMSTER MEMBERS
FROM MICHAEL H. HOLLAND,
ELECTION OFFICER, IBT**

You may recently have seen or heard about a letter purportedly written by Dan Gage, a member of Local 313, concerning Teamsters for a Democratic Union ("TDU"). This letter is a forgery. The letter was not written by Mr. Gage, nor does it reflect his views regarding TDU. While the Election Office has been unable to determine the identity of the author of the letter, this memo is being written and distributed to notify you that the letter is not from Mr. Gage and does not reflect his beliefs or positions regarding TDU or any other matter.



MICHAEL H. HOLLAND
Election Officer, IBT

***This is an official notice and must remain posted until December 10, 1991,
and must not be altered, defaced, or covered with any other material.***

IN RE:

DAN S. GAGE

and

IBT LOCAL UNION NO. 174

IBT LOCAL UNION NO. 313

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DECISION OF THE
INDEPENDENT ADMINISTRATOR

This matter arises as an appeal from the Election Officer's decision in Case No. P-1100-LU174/313-PNW. A hearing was held before me by way of teleconference at which the following persons were heard: John J. Sullivan for the Election Officer; James Oswald for Local Union 174; Allen McNaughton, from Local Union 174; J. Michael Cserepes, from Local Union 313; Dan Gage, the Complainant; and Doug Frechin and Richard Kraft. 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 ("Election Rules"). Local Union 174 also provided a written submission setting forth its position on the protest.

The facts of this case are not in dispute. At a Local 174 membership meeting held on November 14, 1991, IBT member Jeff Sullivan distributed copies of a letter that was critical of Teamsters for a Democratic Union ("TDU") and the Ron Carey Slate of International Union officer candidates. The letter appeared to have been signed by Dan S. Gage, a member of IBT Local 313, who is

in fact an active supporter of TDU and the Ron Carey Slate. It is undisputed that Mr. Gage did not draft the letter and that his signature was forged. Mr. Jeff Sullivan claims that he acted entirely on his own without suspecting that the letter was not authentic. The Election Officer was unable to determine the identity of the individual responsible for drafting the letter and forging Mr. Gage's signature. In addition, there was no evidence implicating any officer or employee of either of the two Locals involved in this affair.

A copy of the letter was also posted on the company bulletin board at the ABF facility where Mr. Gage and other members of IBT Local Union 313 work. The identity of the individual who posted the letter is unknown.

Based on these facts, the Election Officer found a violation of the Election Rules. The Election Officer's decision on the merits is not being challenged here.

To remedy the violation, the Election Officer determined that individuals who were exposed to the forged document must be notified that it was not authentic. Thus, the Election Officer directed the Local to provide the names and addresses of all members attending the November 14, 1991, membership meeting. Upon receipt of that information, the Election would mail a remedial notice signed by him advising the members of the forgery. At the time of the hearing before me, the Election Officer had completed this mailing.

To remedy the further effects of the letter on members who may not have received a copy at the November 14 meeting or may not have seen it on the bulletin board at the worksite, but who may have heard about it from others, the Election Officer directed Local 174 and 313 to post a copy of an explanatory notice drafted and signed by the Election Officer on all bulletin boards at worksites where their members are employed.

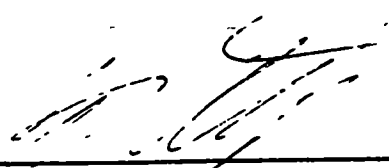
On this appeal, Mr. Gage and Local 174 object to the Election Officer's remedy. Mr. Gage requests that he be issued an apology while Local 174 argues that, having done nothing wrong, it should not have to assume the burden of the corrective posting ordered by the Election Officer. Local 174 also asserts that the notice unfairly stigmatizes it as the wrongdoer in the forgery.

As the Election Officer noted, however, in the absence of a finding as to the culprit behind the forgery, an apology is impracticable, if not impossible. In addition, it is clear that Local 174 exaggerates the burden involved in completing the posting. Moreover, the notice required by the Election Officer in this case does not, in any way, implicate Local Union 174. To the contrary the notice specifically states that the Election Officer has been unable to determine the identity of the author of the letter.

In addition, as the Election Officer noted in his Summary, the Consent Order of March 14, 1989, gives him the authority to "distribute material about the election to the IBT membership."

Thus, the remedy directed here is fully within the Election Officer's powers under the Consent Order even in the absence of a finding that there has been an Election Rules violation. Moreover, Local Union 174 can have no legitimate interest in resisting an opportunity to remedy an undisputed fraud perpetrated against its membership.

For the foregoing reasons, the Election Officer's decision is affirmed in all respects.



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

Dated: December 9, 1991