

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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December 26, 1991

VIA UPS OVERNIGHT

Paul A. Nowlin
5206 Chakanotosa
Orlando, Fl 32818

Larry D. Parker
President
IBT Local Union 385
126 N. Kirkman Road
Orlando, Fl 32811-1498

Re: Election Office Case No. P-1137-LU385-SEC

Gentlemen:

A protest was filed pursuant to the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("*Rules*") by Paul A. Nowlin, a member of Local Union 385. In his protest Mr. Nowlin alleges that the Election Rules were violated as a result of the use of an official union bulletin board, located at a Super Foods warehouse in Orlando, Florida, for the posting of campaign literature. This literature included materials supporting R.V. Durham and his slate of candidates for International office and a defaced piece of Ron Carey campaign literature. This protest was investigated by Election Office Regional Coordinator Don Williams.

The Election Officer's investigation revealed that essentially all of the allegations contained in the protest were true. Pro-Durham campaign literature was posted on a glass enclosed locked union bulletin board located in building "A" of the Super Foods facility in Orlando. Also posted on the bulletin board was a piece of Ron Carey campaign literature, a sample ballot urging a vote for "The Ron Carey Slate", which had been defaced, i.e., the caption "Elect the Entire Ron Carey Slate!" was obliterated and the marking on the ballot for the Ron Carey slate was marked out and markings next to the names of other candidates on the other slates as well as for two independent candidates were inserted.¹ The key to the bulletin board was in the custody or control of Local Union officials.

¹ The Carey literature appears to be part of a two-page campaign leaflet which was distributed and posted by the Local Union in mid-November, 1991 in compliance with the remedial order in Election Office Case Nos. P-929-LU385-SEC and 935-LU385-SEC.

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The Election Rules prohibit the use of Local Union resources and facilities, such as bulletin boards, for campaign purposes unless such resources and facilities are equally available to all candidates. See, Article VIII, §10(c). While there is no allegation in the instant case that Ron Carey supporters were denied access to the Local Union bulletin board for campaign posting, there is no evidence that they were ever informed at any time prior to the International Union officer election of the availability of the bulletin board for campaign purposes.

With respect to the posting of the defaced Carey campaign literature, the Election Officer considers this literature campaign literature no different from any other campaign literature posted on the bulletin board. An IBT member is free to reproduce campaign literature produced by a candidate he does not support, add his own sentiments to the literature and use it to further his own political objectives. However, a member may not deface or destroy the original literature posted by another candidate or campaign. Such conduct is not a member's political expression but the suppression of political expression of another in violation of the Election Rules. The investigation revealed no evidence that a Carey campaign posting was defaced after posting in violation of the Election Rules, as opposed to being reproduced, altered and then posted which would not violate the *Rules*.

Because this protest was filed in the closing days of the International Union officer election campaign, the ultimate resolution of this protest is affected by the results of that election. Ron Carey and his slate of International officer candidates prevailed in the election. Moreover, the margin of victory for the Carey Slate was even greater among members of Local Union 385, the audience of and for the campaign posting in question, than among IBT members generally. The Election Officer therefore concludes that even if the Election Rules were violated by the posting in question, such violation did not have an impact on the outcome of the International Officer election and as a result no remedy for such violation is necessary. See, e.g., Article XI, §1(b)(2).

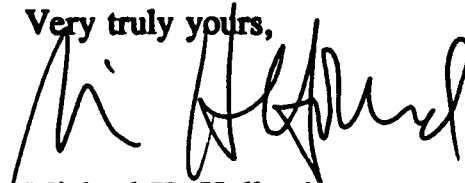
For the foregoing reasons, the instant protest is denied as moot.

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)

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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,

A handwritten signature in black ink, appearing to read "Michael H. Holland". The signature is written in a cursive, somewhat stylized script.

Michael H. Holland
Election Officer

cc: Frederick B. Lacey, Independent Administrator

Don Williams, Regional Coordinator