



OFFICE OF THE ELECTION OFFICER  
% INTERNATIONAL BROTHERHOOD OF TEAMSTERS  
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January 8, 1992

**VIA UPS OVERNIGHT**

Steven J. Rakes  
P.O. Box 40441  
Raleigh, NC 27629

R. V. Durham  
President  
IBT Local Union 391  
3100 Sandy Ridge Road  
Colfax, NC 27235

John Sharp  
Johnny Wiggins  
c/o IBT Local Union 391  
3100 Sandy Ridge Road  
Colfax, NC 27235

**Re: Election Office Case No. P-1146-LU391-MID**

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 Steven Rakes, a member of Local Union 391 and a supporter of the candidacies of Ron Carey and the Rob Carey Slate for International Union officer positions. Mr. Rakes claims that he has been subjected to harassment and the threat of physical harm because of his support for Mr. Carey and the members of the Ron Carey Slate. He further contends that R. V. Durham, an unsuccessful candidate for IBT General President and the principal officer of Local Union 391, is inciting the membership of the Local to harass and threaten the members who support Mr. Carey and his slate. The protest was investigated by Adjunct Regional Coordinator J. Griffin Morgan.

Mr. Rakes is employed by United Parcel Service ("UPS"). He was an unsuccessful candidate for delegate and alternate delegate to the 1991 IBT International Union Convention from Local 391. He, with other members of Local 391, ran on a slate committed to the candidacy of Ron Carey for IBT General President. They were opposed in the delegate election by Mr. Durham, who with the other members of his slate were the successful delegate and alternate delegate candidates from Local 391.

In the recently concluded International Union officer election, the officers and business agents from Local 391 supported Mr. Durham and the members of his slate. The R. V. Durham Unity Team also garnered the support of the majority of Local Union

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391 stewards; certain of the stewards, however, supported Mr. Carey and the members of his slate. Within Local 391, approximately twice as many members voted for Mr. Durham as voted for Mr. Carey in the International Union officer election.

On Friday, December 13, 1991, Mr. Rakes drove to work and parked the vehicle he was driving, a Mazda, in the parking space reserved for the UPS "Driver of the Month;" Mr. Rakes was not the UPS "Driver of the Month" for December, 1991. In white shoe polish across the car's windshield, Mr. Rakes had printed the message, "R. V. Durham Loser & Liar."

Two UPS shop stewards, supporters of Mr. Durham and the R. V. Durham Unity Team, asked a third shop steward, a Ron Carey Slate supporter who had sought a delegate position on the slate committed to Mr. Carey's candidacy, if the Mazda parked in the "Driver of the Month" space was Mr. Rakes' car. The two Durham supporters made some negative comments about the automobile and the message written on it in white shoe polish, suggesting that the car ought to be towed away and that they might be the ones who would initiate such action. This third steward responded by saying, "If it is Steve's car, I wouldn't want to be between Steve and the person who moved it." These comments occurred during the late afternoon or early evening on Friday, December 13, 1991, in the midst of a conversation between the three stewards about the results of the International Union officer election.

When Mr. Rakes left work at approximately 8:45 p.m., his car was at the location he had parked it, undamaged and unharmed. However, the shoe polish message on his windshield had been smeared and Ron Carey's name inserted in lieu of R. V. Durham's. Mr. Rakes did not see and knows of no person who saw or can identify the individual(s) who altered the message on the windshield of his car. The two UPS stewards described above both deny doing so, claiming that their hours of work--which ended after Mr. Rakes left the UPS facility--would have prevented them from going out in the parking lot and altering the message on Mr. Rakes' windshield.

Local 391 held a membership meeting on December 14, 1991. The entirety of the meeting was tape-recorded and transcribed. The Election Officer's investigation of this protest included a review of the entirety of both the tape and transcription, including the remarks made by R. V. Durham at that meeting.

Mr. Durham's speech to the members at the meeting was neither threatening nor inciting. While Mr. Durham criticized some of the International Union officer campaign tactics, rhetoric and literature, he did not link particular candidates to particular activities. He did, however, make complimentary comments about himself and his experience and the experience of other members of his slate, specifically contrasting their experience to the alleged lack of such experience on the part of Mr. Carey and the

members of his slate. Although Mr. Durham stated that he would oppose Mr. Carey and urge others to do so if, in Mr. Durham's words, Mr. Carey "attempts to destroy what so many so many of us have worked to build," Mr. Durham indicated that Mr. Carey would have his support if he "is working in the best interests of this membership."

Mr. Durham did not threaten any Local 391 members because of their support for Mr. Carey and the Ron Carey Slate, nor suggest that any other members of Local 391 do so. The Local 391 steward employed by UPS who had sought election to a delegate position as a member of the slate supporting Mr. Carey states that the officers and business agents of the Local are not and have not discriminated with respect to representation based upon the partisan political positions of the member or the member's steward. While he was not in attendance at the December 14, 1991 Local Union membership meeting, this steward further affirms that he has observed no efforts at prior membership meetings to instigate retaliatory actions against Carey supporters.

Toward the end of the meeting, Mr. Durham asked the members in attendance for their thoughts, comments or suggestions about that which the Local might do differently to become more effective. Mr. Rakes made the first such suggestion. When another member of the Local responded in an uncomplimentary fashion, suggesting that Mr. Rakes did not represent the views of the membership employed by UPS and further that his candidate, Ron Carey, would be unable to run the International, Mr. Durham intervened, saying, "Well, I think enough has been said on that. ~~I don't think we need to get into any exchange here.~~" While Mr. Durham subsequently suggested that Mr. Rakes himself may have created some of the problems among the membership employed at UPS by his negative comments about the IBT, no threats of any nature were ever uttered.

After the conclusion of the meeting, Mr. Rakes was confronted in the parking lot by Larry Hauser, another member of the Local and a shop steward at Stroh's Brewery. Mr. Hauser admittedly, to his present regret, lost his temper. He claims he was provoked by Mr. Rakes' prior looks and comments, interpreted by Mr. Hauser to constitute "gloating" over the International Union officer election results. Mr. Rakes denies any provocation.

Mr. Rakes and Mr. Hauser have had confrontations in the past; during the counting of the ballots for the delegate and alternate delegate election in Local 391, Adjunct Regional Coordinator Griff Morgan was obliged to intercede to prevent an altercation between the two. The comment made by the UPS steward who ran with Mr. Rakes as a candidate for delegate to the 1991 IBT International Union Convention from Local 391, quoted above, *supra* at p. 2, suggests that Mr. Rakes is not necessarily even tempered.

Mr. Rakes contends that Mr. Hauser threatened to kill him during the confrontation in the parking lot on December 14, 1991. Mr. Hauser denies any threats but admits that he offered to fight Mr. Rakes. Local 391 business agents R. W. Brown and Claude Gray got between the two men and the matter ended. Mr. Rakes got in his car and left the site; Mr. Brown took Mr. Hauser back inside the Local Union hall. There was no physical altercation of any kind; Mr. Rakes was not physically touched by Mr. Hauser.

Based on the foregoing, the Election Officer concludes that the *Rules* have not been violated. The inquiry into the identity of the owner of the Mazda parked in the parking space at the UPS terminal reserved for the "Driver of the Month" appears to be but a normal reaction to Mr. Rakes' very provocative message on the windshield of his automobile and the parking of such vehicle in a prominent and improper spot. Since the 1991 IBT International Union officer election was concluded by December 13, 1991, the only possible purpose of the message could be to provoke a response from those Local 391 members who had supported Mr. Durham for IBT General President. Similarly, the altering of Mr. Rakes' campaign statement, the substitution of Mr. Carey's for Mr. Durham's name, even if considered to be a violation the *Rules*, occurred after the election was concluded, at a time when such alteration could have no impact on the election. See *Rules*, Article XI, § 1(b)(2).

The content of the December 14, 1991 Local Union membership meeting was not incendiary. Neither Mr. Rakes nor any other supporter of Mr. Carey's candidacy was threatened, either directly or indirectly; the members of the Local were not urged to engage in retaliatory conduct because of any member's partisan political position. While Mr. Durham's statements may have been somewhat unconciliatory, neither the *Rules* nor the Election Officer may require an IBT member or a losing International Union officer candidate to embrace and/or promise fidelity to the winning International Union officers. It would indeed be antithetical to the purpose and content of both the March 14, 1989 Consent Order and the *Rules* to require any IBT member to provide and/or voice total support for the successful International Union officers or the policies they espouse.

The incident outside the Local Union hall after the conclusion of the December 14, 1991 membership meeting was unfortunate. The confrontation, however, appears to stem primarily from the animosity which has existed between Mr. Hauser and Mr. Rakes, both apparently persons of excitable natures, throughout the tenure of the rather lengthy International Union delegate and officer election process. The incident was stopped by two Local 391 business agents prior to the commencement of any physical altercation. To the extent that Mr. Hauser had been threatening Mr. Rakes, the business agents protected Mr. Rakes from any physical harm.

There is no evidence of any attempt by the officers or employees of Local 391

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to intimidate Mr. Rakes or any other supporter of Ron Carey or the Ron Carey Slate. As noted above, all members of Local 391, regardless of their partisan political positions, have apparently obtained the same quality of representation by the Local's officers and business agents. The business agents intervened to prevent anything untoward from befalling Mr. Rakes.

For all the foregoing reasons, this 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/mjv

cc: Frederick B. Lacey, Independent Administrator  
Grant Crandall, Regional Coordinator  
J. Griffin Morgan, Adjunct Regional Coordinator