

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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May 21, 1991

VIA UPS OVERNIGHT

Bradley D. Colesworthy
424 Leafsmoke Drive
Gastonia, NC 28034

Conrad D. Sides
President
IBT Local Union 71
5000 N. Tryon Street
Charlotte, NC 28256

Hugh Hagler
4015 Oakforest Drive
Charlotte, NC 28215

James Collins
Route 1
Wingate, NC 28174

Re: Election Office Case No. P-176-LU71-MID

Gentlemen

A protest was filed with the Election Officer pursuant to Article XI of the *Rules for the International Union Delegate and Officer Election*, revised August 1, 1990 ("*Rules*"). In his protest, Bradley Colesworthy alleges the *Rules* were violated by two fellow members of Local Union 71 as a result of their distribution of a leaflet critical of Ron Carey, an accredited candidate for General President of the IBT. The Election Officer's investigation of this protest revealed the following.

Mr. Colesworthy, along with the other members of the Rank and File Teamsters for Reform Slate, is a successful candidate for delegate from Local Union 71 to the 1991 IBT International Convention. The members of the Rank and File Teamsters for Reform Slate are supporters of Ron Carey.¹

¹ While the delegate election for Local 71 has concluded and the protester here was a successful candidate in such election, this protest is not moot. The International Officer Election is ongoing and Ron Carey, the target of "Teamsters Election News", remains a candidate for International General President in such election.

On December 20, 1990, Hugh Hagler and Jim Collins, fellow employees of Consolidated Freightways, were seen by Colesworthy with copies of a leaflet critical of Ron Carey. The leaflet consists of headlines and fragments of text from the "Teamster Election News".

The publication is critical of Ron Carey and his candidacy for General President of the IBT. The leaflet was originally prepared by Frank Wood, the Secretary-Treasurer of IBT Local Union 28.

Colesworthy alleges that Hagler and Collins were supporters of the Conrad Sides Slate of candidates for delegate and alternate to the IBT Convention. Colesworthy further alleges that Hagler posted a copy of the leaflet on a general purpose bulletin board in the drivers' room of the Consolidated Freightways facility and that both Hagler and Collins distributed the leaflet to IBT members. Mr Colesworthy does not allege that he was prohibited from posting or distributing campaign literature on the same basis as Hagler and Collins. Colesworthy's protest appears to be limited to the content of the leaflet.

Underlying the *Rules* is a firm policy against censorship or the regulation of the content of campaign literature. Article VIII, Section 6 (g) of the *Rules* specifically states that "[t]he Union may not censor, regulate, alter or inspect the contents of any candidate's campaign literature. The Union may not refuse to process or distribute any candidate's literature on the basis of its contents." This policy reflects the right of union members to engage in vigorous internal union debate free from the threat of internal union discipline for their campaign statements. See, e.g., Petramale v. Laborers Local 17, 736 F. 2d 13 (2nd Cir. 1984), Semancik v. UMW District 5, 80 LRRM 3475 (3rd Cir. 1972); Salzhandler v. Caputo, 316 F 2d 445 (2nd Cir 1963). Similarly, the United States Supreme Court has recognized labor disputes ". . .are frequently characterized by bitter and extreme charges, countercharges, unfounded rumors, vituperations, personal accusations, misrepresentations and distortions. Old Dominion Branch No. 496 v. Austin, 418 U.S 264, 272 (1974).

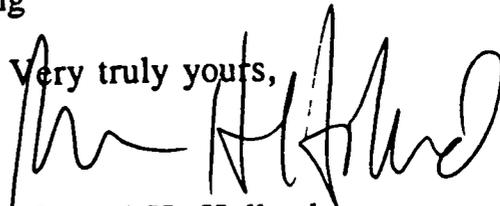
The model for free and fair Union elections is that of partisan political elections. In those elections, contestants are generally allowed to make whatever assertions, allegations, statements of opinion or ever of alleged facts without legal sanctions for their truth or falseness. The cardinal principle is that the best remedy for untrue speech is more free speech, with the electorate being the final arbiter.

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The Election Officer finds that the content of the leaflet in question is not violative of the **Rules** and therefore denies the instant protest²

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/pjm

cc Frederick B. Lacey, Independent Administrator, IBT
Grant Crandall, Election Office Regional Coordinator
J. Griffin Morgan, Adjunct Coordinator
Ron Carey Campaign, c/o Richard Gilberg, Esquire

² Although not raised as an allegation in this protest, the Election Officer in the investigation of this protest, and other protests concerning the "Teamster Election News", is examining the source of funding of the publication and distribution of "Teamster Election News" by RL Communications. The Election Officer has concluded that if the publication and distribution of the "Teamster Election News" involved the use of union or employer contributions in violation of the **Rules** such violation can and will be remedied by a reimbursement, with interest, of the prohibited contributions. Such remedy and, if appropriate, other remedies directed to RL Communications and the Union and/or employers making improper contributions are sufficient under the **Rules** to eradicate the effect of any such violation. See, e.g., Election Officer Case No. P-249-LU283-MGN.