



OFFICE OF THE ELECTION OFFICER  
% INT NATIONAL BROTHERHOOD OF TEAMSTERS  
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Election Officer

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May 21, 1991

**VIA UPS OVERNIGHT**

John W. Braxton  
4712 Windsor Ave.  
Philadelphia, PA 19143

Richard Opalesky  
Secretary-Treasurer  
IBT Local Union 623  
1911 South 24th Street  
Philadelphia, PA 19145

Re: Election Office Case No. P-304-LU623-PHL

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 John W. Braxton alleges that the *Rules* were violated as a result of the distribution of a photocopy of a publication called the "Teamster Election News" to members of Local Union 623. The Election Officer's investigation of this protest revealed the following

Mr. Braxton alleges that a photocopy of the "Teamster Election News" was mailed by Richard Opalesky, the Secretary-Treasurer of Local Union 623, to all members of the Local Union. Mr. Braxton objects to the content of the "Teamster Election News" and alleges that Local Union funds were used in the printing and distribution of the literature. The "Teamster Election News" is a four page tabloid published by RL Communications of Detroit Michigan. The publication is critical of Ron Carey and his candidacy for General President of the IBT.

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, eg, 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 fact that the campaign statements contained in the "Teamsters Election News" were allegedly false or even defamatory does not remove such literature from the protection of the **Rules** 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 even 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

Article VIII, Section 10 (c) of the **Rules** provides that Union funds or resources may not be used for campaign purposes unless the Union is reimbursed for such use and that such funds and resources are available to all candidates Article VIII, Section 6 (a) provides that candidates have the right to request the Union to distribute campaign materials However, the **Rules** the candidate to pay the costs of the literature and its distribution.

The Election Officer's investigation found that no Union funds were used in the copying and distribution of the "Teamster Election News" by Mr Opalesky The evidence provided to the Election Officer demonstrates that Mr Opalesky personally paid the costs of the duplication and mailing, including the costs of the production of the mailing labels by the Local, to the Local's membership of the "Teamster Election News" <sup>1</sup>

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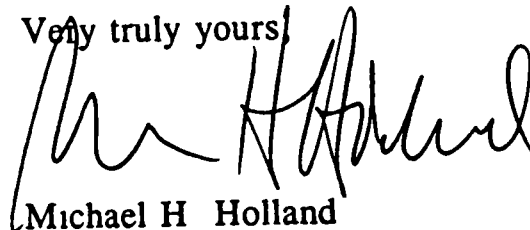
<sup>1</sup> Although this protest only raises the issue of the use of the funds of Local Union 623 in the distribution of this literature, the Election Officer is examining the source(s) of funding of the publication and distribution of "Teamsters Election News" by RL Communications The Election Officer 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

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For the forgoing reasons the instant 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/pjm

cc Frederick B. Lacey, Independent Administrator, IBT  
Peter V. Marks, Sr., Election Office Regional Coordinator  
Ron Carey Campaign, c/o Richard Gilberg, Esquire

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Communications and the Union and/or employers making improper contribution are sufficient under the **Rules** to eradicate any such violations. See, e.g. Election Office Case No. P-249-LU283-MGN