

OFFICE OF THE ELECTION OFFICER
% INTERNATIONAL BROTHERHOOD OF TEAMSTERS
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January 30, 1991

Michael H Holland
Election Officer

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% Cornfield and Feldman
343 South Dearborn Street
Chicago, IL 60604
(312) 922-2800

VIA UPS OVERNIGHT

Mark Franks
5851-U Reddman Road
Charlotte, NC 28212

Ralph Durham, Jr.
Business Agent
IBT Local Union 71
5000 N. Tryon St.
Charlotte, NC 28213

Re: Election Office Case No. P-346-LU71-MID

Gentlemen:

On January 20, 1991, Mark Franks protested the sale of raffle tickets in the Local Union 71 union hall by business agent Ralph Durham Jr. on behalf of his father, R. V. Durham, Sr. The proceeds from the sale of the raffle tickets would go to the Durham-Mathis Unity Team Campaign Fund. The bases of the protest were: (1) Campaign solicitations should not be conducted in the union hall; (2) an investigation should be made of the raffle stubs to assure against employer contributions; and (3) the raffle-lottery may be illegal under North Carolina law.

An investigation was conducted and the following facts were uncovered. Mr. Durham admitted that, following the monthly union meeting, held on Saturday, January 12, 1991 at 10 00 A M., he sold raffle tickets to various persons then in the union hall. He maintained that he was on his own time and free to campaign in the union hall.

Mr. Franks stated that in his opinion there was an unwritten rule that raffle tickets would not be sold inside the union hall. However, there was no suggestion that anyone had ever been prohibited from campaigning inside the Union hall or that such campaigning (i.e. discussions in the washroom) had ever emerged as an issue. Both the Conrad Sides Slate and the Rank and File Teamsters for Reform Slate, slates of candidates competing for election for delegate and alternate delegate to the 1991 IBT International Convention, had otherwise been campaigning only outside the union hall both before and after the January 12 Local Union meeting. Mr. Franks was unable to produce evidence of employers having purchased the raffle tickets.

Mark Franks
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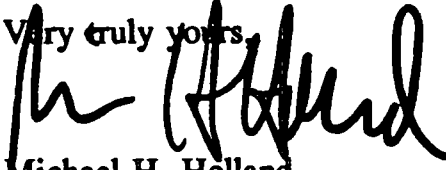
The first basis of the protest is that campaigning should be conducted outside of the union hall. However, Article VIII-10(d) of the Rules for the IBT International Union Delegate and Officer Election prohibits restrictions on campaigning in the union hall and requires that the hall be made equally available on the same basis to all candidates and members. Hence, the first basis for the charge is unfounded.

The second basis of the charge is in the form of a request for an investigation of whether raffle tickets were sold to employers. However, Article XI-1-C of the aforesaid Rules provides that the complainant has the burden to present evidence that a violation has occurred. In the absence of any such evidence, the second basis for the charge is unfounded. It is nevertheless noted that no disclaimer is on the raffle tickets. See Memorandum from Election Officer dated September 5, 1990 re. Disclaimer of Employer, Union and Other Improper Contributions. As noted therein, in the event of a proven improper contribution, inclusion of the disclaimer is considered as an indication of a good-faith attempt to prohibit such contributions, and therefore its absence would be considered in fashioning an appropriate remedy if there was proof of improper contributions.

The third basis of the protest is a possible violation of state law. I lack jurisdiction to decide this question.

For the foregoing reasons, the 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/acm

cc: Frederick B. Lacey, Independent Administrator
Grant Crandall, Regional Coordinator