



OFFICE OF THE ELECTION OFFICER  
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Michael H Holland  
Election Officer

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February 13, 1991

**VIA UPS OVERNIGHT**

Arthur N. Snow  
3 Visby Avenue  
Plainville, MA 02762

Wayne L. Boraccini  
15 Field Street  
Auburn, MA 01501

Ernest R. Tusino  
Secretary-Treasurer  
IBT Local Union 170  
805 Millbury Street  
Worcester, MA 01607

Re: Election Office Case No. P465-LU170-ENG

Gentlemen

Complainants Arthur N. Snow and Wayne L. Boraccini filed a pre-election protest pursuant to Article XI, Section 1 of the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("*Rules*"). The complainants protest that the content of campaign literature dated February 4, 1991, mailed out over the signature of Ernest R. Tusino, the Secretary-Treasurer of Local 170 and Carl F. Gentile, the President of Local 170, contains "misleading and erroneous" information. The contents of that mailing are attached hereto

The model for fair and free 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. As long as the literature in question does not purport to be the official voice of the organization, as opposed to being the opinion of candidates who may be officers, inquiry will not generally be made as to its truthfulness.

Thus, the fact that the campaign literature allegedly contains false, irrelevant or even defamatory information does not remove it from the protection of the Election *Rules*. National Association of Letter Carriers v. Austin, 418 U.S. 264 (1974) (uninhibited and robust debate encouraged in labor matters, even allegedly defamatory statements permitted), Salzhaldler v. Caputo, 316 F.2d 445 (2d Cir. 1963) (statements critical of union officials, even if incorrect, protected). The policy

Arthur N. Snow  
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encouraging robust political debate in the selection of delegates and International Officers of the IBT is reflected in the Election *Rules* prohibition against the censorship of campaign literature. See *Rules*, Article VII, Section 6(g)

Here, the letter mailing in question does not bear the Local logo or otherwise indicate that it is an organizational statement of position. It is clearly campaign literature urging support of a particular group of candidates for delegates and alternate delegates of the 1991 IBT International Convention. That one of the arguments made in the literature is based upon the words of the IBT Constitution does not make the literature violative of the *Rules*.

The literature cannot be construed to indicate that Local Union officers will automatically be 1991 IBT International Convention delegates. The document is campaign literature with respect to that election. At most, it argues that Local Union officers, by their position, and absent the Consent Order, would be the delegates and therefore should be elected to fill the delegate positions.

Consequently for the reasons above stated, this protest must be DENIED, even if arguably the content of said mailing could be read so that the statements contained therein were factually misleading or erroneous.

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/ads

cc Frederick B. Lacey, Independent Administrator  
Elizabeth A. Rodgers, Regional Coordinator