

OFFICE OF THE ELECTION OFFICER
INTERNATIONAL BROTHERHOOD OF TEAMSTERS
25 Louisiana Avenue, NW
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Michael H Holland
Election Officer

Chicago Office:
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343 South Dearborn Street
Chicago, IL 60604
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February 12, 1991

VIA UPS OVERNIGHT OR FAX AS NOTED

Larry Jordan
6087 Alive Drive
Westerville, OH 43081

Charles Teas
Secretary-Treasurer
IBT Local Union 413
555 E. Rich St.
Columbus, OH 43215
(614) 228-3933 (FAX)

Franklin L. Short
c/o OTPIC Slate
305 N. Greener
Columbus, OH 43228
(614) 228-3933 (FAX)

W. Pete Bilyeu
President
IBT Local Union 413
555 E. Rich St.
Columbus, OH 43215

Re: Election Office Case No. P-478-LU413-CLE
P-461-LU413-CLE

Gentlemen

Pre-election protests were timely filed pursuant to Article XI of the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("Rules"). In their protests, Franklin L. Short and Larry Jordan allege that they have not been permitted by Local Union 413 to mail campaign literature by the least expensive process, and have been required to use Local Union staff to process their mailings.

The investigation shows the following on December 7, 1990, Charles Teas, Secretary-Treasurer of Local Union 413, issued a letter and posted a notice on Union bulletin boards instructing candidates on the procedures which should be followed to mail campaign literature through the Local. All slates¹ followed the procedure as instructed by the notice. The letter specified that \$150 00 would be charged by the Local for clerical assistance, \$20 00 would be charged for labels. All slates made campaign

¹There are three slates, as well as independent candidates campaigning in this Local election.

mailings and paid the charges as specified.

After the initial campaign mailouts, Mr. Teas put out a second mailout on behalf of his slate. The labor for this mailout was performed at the Local Union Hall by volunteers, Mr. Teas' spouse and a fellow IBT member. Thus, Mr. Teas accomplished his mailing without paying the \$150.00 which he personally had established as the required cost of clerical assistance which had to be paid by all other candidates.

~~The Rules~~ provide that "Each candidate, shall be permitted a reasonable opportunity, equal to that of any other candidate, to have his/her literature distributed by the Union, at the candidate's expense If the Union does not make arrangements with a mailing service, it must permit individuals designated by the candidate to perform the tasks associated with the processing and distribution of the literature." *Rules*, Article VIII, § 6.

Thus, Mr. Teas, through his position as Secretary-Treasurer of the Local has violated the *Rules* in two respects. First, the policy he promulgated requiring campaign mailings to be accomplished with paid Union clerical assistance violated the *Rules* which permit volunteer labor. Second, he availed himself and his slate of the advantages of volunteer labor, while denying such benefits to other candidates, thereby denying equal rights to all candidates with respect to campaign literature distribution.

To remedy the violation, the Election Officer orders the following:

- (1) Local Union 413 shall cease and desist from requiring any candidates to use the Local Union clerical staff to perform tasks associated with campaign mailings and shall permit the use of volunteers of the candidate's choosing.
- (2) Charles Teas shall withdraw the notice and letter issued by him on December 7, 1990 and issue the attached letter to all candidates for delegate and alternate delegate or their slate representative. Mr. Teas shall telephone each such candidate or slate representative within twenty-four hours of receipt of this decision and tell them that they can mail with the help of volunteer labor.²
- (3) Charles Teas shall personally reimburse all candidates for \$150.00 paid by them to the Local as the cost of campaign mailings.
- (4) Charles Teas shall file an affidavit with the Election Officer by February 18, 1990, indicating all steps taken to comply with this order.

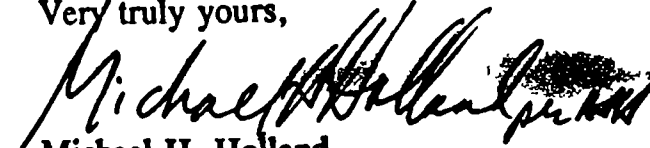
If any interested party is not satisfied with this determination, they may request a hearing before the Independent Administrator within twenty-four (24) hours of their receipt of this letter. The parties are reminded that, absent extraordinary circumstances,

²The Regional Coordinator is also directed to telephone the candidates or slate representatives and inform them of this Decision and of their campaign mailing rights.

Larry Jordan
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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/mca

cc: Frederick B Lacey, Independent Administrator
Joyce Goldstein, Regional Coordinator

Larry Jordan

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DRAFT LETTER

Dear Member

You have the right to make a campaign mailing through the Local Union. You are not required to use Local clerical staff to process your mailing; You can use volunteers of your choosing.

Additionally you are entitled to use the Local Union's non-profit bulk mail permit. If you do so, you must use the Local Union's return address, and include a disclaimer in your literature, stating that the contents are not endorsed by the Local. If you use regular mail postage, you are not required to use the Local Union's return address on your envelope. If you do use the Local address, however, you must include the disclaimer.

This letter replaces the prior letter of December 7, 1990 regarding campaign mailings

Charles Teas

Local 413's delegate election race is contested, with at least three slates running candidates; Mr. Teas is aligned with one slate, Mr. Bilyeu is aligned with another, and the complainants, Messrs. Jordan and Short, are aligned with a third. Mr. Teas' slate and the slate of Messrs. Jordan and Short each completed one mailing following the procedure set forth in Mr. Teas' notice -- paying the \$150. Mr. Bilyeu completed two mailings, paying a total of \$300.

Subsequently, Mr. Teas mailed a second round of campaign literature on behalf of his slate. In this mailing, Mr. Teas used unpaid volunteers for clerical labor instead of using the Local's staff and paying the \$150. Mr. Teas stated that he did not use the Local's staff because of problems that had arisen with their efficiency. In addition, Mr. Teas indicated that he received permission from the Regional Coordinator, Ms. Goldstein, before using the voluntary assistance. Upon learning that Mr. Teas had bypassed his own requirement to use the Local's clerical staff and to pay the \$150, this protest was filed.

Article VIII, Section 6.a.(1) of the Rules For The IBT International Union Delegate And Office Election (the "Election Rules") provides that candidates shall be permitted to have literature distributed by the Local at the candidate's expense. Section 6.h. strongly urges Locals to arrange for mailing services to handle candidates' mailing and to deal directly with candidates. That section further provides that if a Local does not avail itself

of such services, "it must permit individuals designated by the candidate to perform the tasks associated with the processing and distributing of the literature." (Emphasis supplied).

The Election Officer found that Mr. Teas violated the Election Rules by distributing the December 7 Notice since it clearly conveyed the message that candidates were "required to pay . . . \$150 for the Office Staff for preparing [their] mailing." I affirm this finding. Mr. Teas' notice was in direct conflict with Article VIII, Section 6.h. of the Election Rules.

Mr. Teas argued that the notice was intended as merely suggesting one alternative means of distributing literature and that the Election Rules speak for themselves. The Election Officer rejected this position and so do I. The notice is plain, it presents no options -- if you want to mail literature through the Local, you must pay \$150. While I recognize that all candidates had available to them a copy of the Election Rules, they all stated that they viewed Mr. Teas' notice as the definitive statement concerning the method of mailing campaign literature. In fact, some stated they assumed Mr. Teas had his notice approved by the Election Officer. This, of course, was not done.

By taking it upon himself (without consulting the Election Officer or his fellow Local Union officers) to distribute the Notice, Mr. Teas assumed the responsibility of accurately and

adequately conveying the proper procedure for mailing campaign literature. This was not done here.¹

To guard against prospective violations of the Election Rules, the Election Officer ordered the Local to cease requiring candidates to use the Local's clerical staff to mail campaign literature. Although Mr. Teas contended that this was never a requirement, he posed no objection to this directive.

Mr. Teas was also directed to "withdraw" his December 7 Notice and to notify all candidates by mail and by phone of their right to use volunteer labor. Mr. Teas indicated that this has already been done.

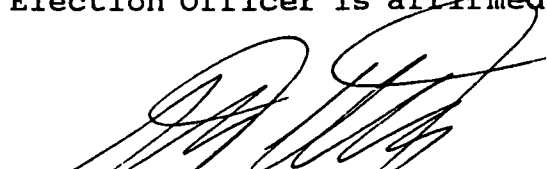
The Election Officer also directed Mr. Teas to personally reimburse all candidates for the monies paid by them to the Local for the cost of their campaign mailings.² Mr. Teas strenuously objected to this remedy. Mr. Teas' objections are without merit. The other candidates are entitled to be reimbursed for unnecessarily paying the Local's clerical staff, in reliance on Mr. Teas' Notice. That Mr. Teas should personally be responsible for

¹ The fact that Mr. Teas himself initially paid the \$150 is of no moment. Mr. Teas' omissions are not mitigated because he himself may have genuinely misunderstood the proper procedure. By undertaking the issuance of the Notice, Mr. Teas should have taken the necessary precautions to insure its accuracy. Moreover, it is clear that when it served him, Mr. Teas took the time to consult with the Regional Coordinator and learn that the Election Rules do, in fact, allow for the use of volunteer labor.

² The total amount to be reimbursed is \$450. Messrs Jordan and Short receive \$150 for their slate's own mailing and \$300 to Mr. Bilyeu for his slate's two mailings.

making the reimbursement is clear, given that he acted unilaterally in issuing the December 7 Notice.

Accordingly, the ruling of the Election Officer is affirmed in all respects.



Frederick B. Lacey
Independent Administrator
By: Stuart Alderoty, Designee

Dated: February 26, 1991.

TEAMSTERS UNION LOCAL No. 413

NOTICE

December 7, 1990

To: All Members of Teamsters Local Union No. 413

Any candidate for Delegate to the 1991 International Brotherhood of Teamsters Convention in Orlando, Florida is entitled to mail literature to the Membership of Teamsters Local Union No. 413. The mailings will be handled as follows:

You must contact the Secretary-Treasurer of Local 413, Charles F. Teas and submit a written request. Any questions regarding mailing procedures should be directed to the Secretary-Treasurer.

The mailing can be mailed either First Class or Bulk Rate. All envelopes must have literature inserted and ready to mail. All envelopes must have Local 413's return address and you must add your name. Sample:

Candidate Name or Slate Name
c/o Teamsters Local Union No. 413
555 East Rich Street
Columbus, Ohio 43215-5397

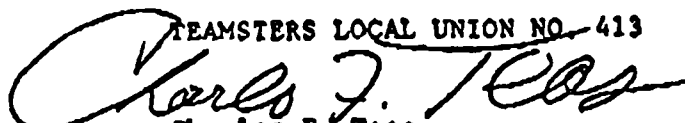
If you choose First Class your envelopes must have postage on the envelope. If you choose Bulk Rate, Local 413's permit number must be printed on the envelope. Bulk Rate postage must be paid to Local 413 in advance of the mailing. Local 413's Membership is approximately 5,000, therefore, the postage for Bulk Rate would be \$420.

The day of your mailing you are to bring your mailing to Local 413's office by 4:30 p.m. The Office Staff will start promptly at 4:45 p.m. You are required to pay \$20 to Local 413 for the labels which will be used to mail your literature, \$150 for the Office Staff for preparing your mailing (putting on mailing labels and preparing mail to be taken to the Post Office). All monies must be paid in advance of your mailing, and if paid by check, make payable to Teamsters Local Union No. 413.

If you have any questions regarding the mailing procedures, please contact me.

Fraternally yours,

TEAMSTERS LOCAL UNION NO. 413


Charles F. Teas
Secretary-Treasurer