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March 28, 1991

**VIA UPS OVERNIGHT**

The Committee to Elect  
Ron Carey  
c/o Richard N. Gilberg, Esq.  
Cohen, Weiss and Simon  
330 West 42nd Street  
New York, N Y 10036-6901

The Durham-Mathis Unity Team  
c/o Hugh J. Beins, Esq.  
Beins, Axelrod, Osborne  
& Mooney  
2033 K Street, N W, Suite 300  
Washington, D C 20006

**Re: Election Office Case No. P-512-IBT**

Gentlemen

A pre-election protest was filed by the Committee to Elect Ron Carey ("Carey") pursuant to the Rules for The IBT International Union Delegate and Officer Election, revised August 1, 1990 ("Election Rules"). In that protest Carey alleges that the Durham-Mathis Unity Team ("Durham-Mathis") violated the Election Rules as a result of its bulk distribution of campaign literature to IBT Local Unions with the request that the literature be distributed by the Local Unions to IBT "leaders, stewards and members". The Election Officer's investigation revealed the following:

In January, 1991, Durham-Mathis mailed a letter to the principal officers of virtually all IBT Local Unions at their union offices.<sup>1</sup> Included with the letter was an eight page brochure and a petition. The letter, addressed to "Dear Teamster Leader", states that the enclosed items are the "Unity Teams' first general purpose piece of campaign literature" and goes on to inform the recipient that Durham-Mathis will, in the next few days, "send additional copies for distribution to other leaders, stewards, and members."

Later in January, 1991, Durham-Mathis sent a memorandum to "Local Teamster Union Officers" on the subject of the "Unity Team campaign materials". The memo states that "we hope you will distribute to Teamster Union leaders, stewards, and members of your local union". Enclosed with the memo were between 100 and 2,000

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<sup>1</sup>Mailings were sent to all Local Unions with the exception of Local Unions 30, 448, 572 and 804

copies of the Durham-Mathis campaign literature. Most locals received 100 copies and Local Unions 245 and 287, which had respectively received 100 and 300 copies in the original mailing, requested and received 1,000 additional copies. A total of 195,400 copies of the Durham-Mathis literature were distributed in the initial mailing.

In February, 1991, Durham-Mathis sent out another mailing to the principal officers of virtually all IBT Local Unions. That mailing included a note to "Dear Teamster Leader" signed by R V Durham, stating that "copies of our latest campaign piece" was enclosed and that "additional copies are available to you to pass among your stewards and members". The quantities sent to the Local Unions in the second mailing were the same as in the first.

No instructions were included in the mailings regarding the manner in which the literature was to be distributed to the "Teamster Union leaders, stewards, and members of your local union". No other instructions were given by Durham-Mathis regarding distribution and no inquiries were made of Durham-Mathis by any Local Union regarding the manner of distribution. No literature was returned by any Local Union to Durham-Mathis. There was no set procedure followed by the Local Unions regarding the distribution of the Durham-Mathis literature. Some literature was discarded by the Local Union and some put out in Local Union halls for distribution to the members. Some Local Unions may have passed the literature on to shop stewards and business agents, who in turn either discarded it, handed it out, or left it for members to pick up.

Article X, Section 1(b)(3) of the Election Rules provides that "[u]se Of Union equipment, stationery, facilities and personnel in connection with any campaign is prohibited unless the Union is compensated for such use by the candidate and unless all candidates are provided equal access to such goods and services." Article VIII, Section 10(c) provides that not only shall all candidates have equal access to union funds, facilities and equipment, but "all candidates [must be] notified in advance of the availability of such goods and services." Article VIII, Section 6(a)(1) of the Election Rules provides that "[e]ach 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".

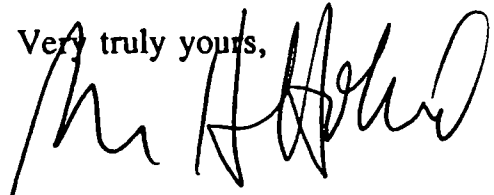
In the instant case, Carey alleges that Durham-Mathis violated the Election Rules when it requested Local Unions to distribute Durham-Mathis campaign literature. The protest does not allege that the literature was distributed by the Local Unions in any particular manner. Similarly, Durham-Mathis did not request a particular form of distribution. Moreover, information received by the Election Officer revealed a diverse response by some Local Unions to the Durham-Mathis request.

The Election Rules are not violated when a candidate asks a Local Union to distribute campaign literature. The distribution of campaign literature is an appropriate means of apprising Union members about the candidates and the issues on which they will be voting and is encouraged under the Election Rules. Therefore, the Election Officer concludes that the Election Rules were not violated by Durham-Mathis when the campaign requested the Local Unions to distribute their campaign literature.

However, the Election Rules require that all candidates be treated equally with respect to the distribution of literature. Thus, all Local Unions that distributed Durham-Mathis literature must provide similar distribution for any other candidate, group of candidates or slate that makes a similar request. A failure by a Local Union to honor requests for the distribution of campaign literature in the same manner, and to the same extent, that it distributed the Durham-Mathis literature will constitute a violation of the Election Rules. Moreover, in order to comply with the Election Rules, each Local Union that received Durham-Mathis campaign material must inform any candidate who so inquires of the manner and extent of the Local Union's distribution of the Durham-Mathis campaign literature. A failure of a Local Union to respond to such a request for information regarding the distribution of campaign literature, or its submission of false, incomplete or misleading information in response to such request shall constitute a violation of the Election Rules. In order to insure that all Local Unions and all announced candidates for International Union office are fully informed of these obligations and rights, the Election Officer shall transmit to each Local Union that received copies of the Durham-Mathis campaign literature a copy of this determination.

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  
Election Officer

MHH/jjs

cc Frederick B. Lacey, Independent Administrator, IBT  
All Announced Candidates for International Office (see attached list)  
Principal Officers of all IBT Local Unions (with the exception of Local Union Nos. 30, 448, 572 and 804)

**ANNOUNCED CANDIDATES FOR INTERNATIONAL UNION OFFICE**

Lawrence Brennan  
Ron Carey  
Frank Carracino  
Jerry Cook  
Robert Cummins  
Dan F Darrow  
Robert Derusha  
R V Durham  
Barry Feinstein  
William Genoese  
Francis W Hackett  
William Hogan, Jr  
Diana Kilmury  
Eddie Kornegay  
Louis Lacroix  
Edward Lawson  
Ben Leal  
Mitchel Ledet  
Daniel Liguoris  
Chuck Mack  
Weldon Mathis  
Doug Mims  
John Morris  
Larry Parker  
Mario Perrucci  
Louis Riga  
Michael J Riley  
Robert C. Sansone  
Tom Sever  
Walter Shea  
Robert T. Simpson, Jr.  
T C Stone  
Charles Thibault  
Joseph Trerotola  
Joseph Valenti  
Arnie Weinmeister  
Don West