



OFFICE OF THE ELECTION OFFICER
% INTERNATIONAL BROTHERHOOD OF TEAMSTERS
25 Louisiana Avenue, NW
Washington, DC 20001
(202) 624 8778
1 800 828 6496
Fax (202) 624 8792

Michael H Holland
Election Officer

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

February 22, 1991

VIA UPS OVERNIGHT

John Conaway
13577 Simshaw Ave.
Sylmar, CA 91342

Barry L. Clark
5893 Crescent Ave
Buena Park, CA 90620

Joe De Croix
3724 L El Carmen Ave.
Orange, CA 92669

Richard D Martino
Secretary-Treasurer
Teamsters Local 420
1221 N Peck Road
S El Monte, CA 91733

Ralph Yager
1158 W. Queenside Rd.
Covina, CA 91722

Clyde Craig
1004 Dos Ruboes Pl.
Al Hambra, CA 91801

Re: Election Office Case No. P-541-LU420-CLA

Gentlemen:

A pre-election protest was filed under the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("*Rules*"). Complainant John Conaway filed a protest concerning the fact that campaign literature of an opposing slate includes the Western Conference Teamster seal on it. The Election Officer has conducted an investigation and determined the following.

Inspection of the material attached to Complainant's protest discloses that it does contain the Western Conference Teamster seal in the upper lefthand corner. Further inspection of the material indicates that it is clearly campaign material promoting the candidacy of the "420 Delegate Committee."

Article X, § 1 (b)(3) of the *Rules* does not prohibit utilization of IBT insignia on campaign literature. The only restriction under the *Rules* is the prohibition of the use of insignia contained on the Union's official stationery. The Election Officer has previously held that the use of Union insignia in connection with materials that are obviously campaign material is permissible. See Election Office Case No P-226-LU182-PGH and 91-Elec.App.-40, Decision of the Independent Administrator.

John Conaway
Page 2

In the instant case, the literature in question is not misleading. The document is clearly campaign material. Accordingly, 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/mca

cc: Frederick B Lacey, Independent Administrator
Geraldine L Leshin, Regional Coordinator

IN RE:

JOHN CONAWAY,

Complainant,

and

BARRY L. CLARK, RALPH YAGER,
JOE DeCROIX, and CLYDE CRAIG

Respondents.

91 - Elec. App. - 87 (SA)

DECISION OF THE
INDEPENDENT ADMINISTRATOR

This matter arises out of an appeal from a February 22, 1991, decision of the Election Officer in Case No. ~~91-87~~^{P-541}. A hearing was held before me by way of teleconference on March 5, 1991, at which the following persons were heard: John Conaway, the complainant; Richard Martino, Secretary-Treasurer of Local 420; the respondents, Barry Clark, Ralph Yager, and Clyde Craig; and John J. Sullivan, on behalf of the Election Officer.

Mr. Conaway is a member of Local 420 and a candidate for delegate to the 1991 IBT International Convention on behalf of that Local. Mr. Conaway claims that an opposing slate of candidates -- the "420 Delegate Committee" -- improperly reprinted the logo of the Western Conference of Teamsters in the upper left-hand corner of campaign material sent to members of Local 420. A copy of that material is attached hereto as Exhibit A.

Article X, Section 1.b.(3) of the Rules For The IBT International Union Delegate And Office Election (the "Election Rules") prohibits the use of Union funds or resources, including its stationery, to promote the candidacy of any individual or slate. Although that provision expressly disallows the use of official stationery with the Union's insignia,¹ it does not prohibit the use of the insignia, per se, on campaign literature.

In In Re: Majka, 91 - Elec. App. - 40 (January 18, 1991), the Independent Administrator affirmed the Election Officer's denial of a pre-election protest challenging campaign literature on the ground that such literature contained the insignia of the International Brotherhood of Teamsters. As concluded in Majka:

[T]he use of the insignia on the literature here is not deceptive or misleading because the literature is clearly campaign literature and not an official notice implying the endorsement of [the] Local . . . or the International.

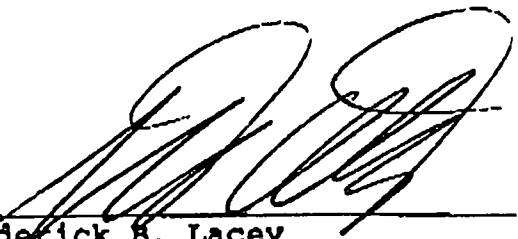
In this matter, the same analysis applies. The material in question, cannot be reasonably read as anything other than campaign literature. As the Election Officer notes in his Summary:

Its general appearance does not convey that it is an official missive from the Western Conference. . . . The likelihood that such material misleads the reader into believing that the campaigning slate has the imprimatur of the Western Conference is extremely remote.

¹ In the "Definitions" section of the Election Rules, the term "Union" is defined to include the International Union and all subordinate bodies "unless explicit distinction is made." Election Rules at A-8. Because Article X, Section 1.b.(3) makes no such distinction, its prohibition extends to the use of stationery with the logo of the Western Conference, a subordinate body of the IBT.

Accordingly, the ruling of the Election Officer is affirmed in all respects. The following comments of the Election Officer, as found in his Summary, are, however, worth repeating:

The Election Officer declines to establish a per se prohibition [on the use of any Union insignia on campaign material] . . . and will continue to evaluate use of [a] Union insignia, as well as all other challenged conduct, against the totality of the circumstances presented on a case-by-case basis. In this case, there appears to be no reasonable probability that the material will be read as carrying the official blessing of the Western Conference. Different facts, however, which tend more strongly to imply Union endorsement or to implicate expenditure of Union funds or resources, may well produce a different result.



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

Dated: March 6, 1991.

EXHIBIT A

3- 4-91 : 4:31PM :

8782-

12016430049.#



420 DELEGATE COMMITTEE

For the Rank and File

SLATE



**** Barry L. Clark ****

- This is the convention where we can make a difference!
- BA's at work place before work to talk to the members
- Be able to change by-laws any month!

Phone: 714-995-6818

--- A Rank & File Delegate is one of you --- Make it your company ---

**** Ralph Yager ****



- Give dignity back to the Rank & File.
- Elect our stewards and our business agents.
- The Union works for the Rank & File; the Rank & File doesn't work for Union.

Phone: 818-331-8372

--- They will vote on motions that are important to you, the members ---

**** Joe DeCroix ****

- We need a lot more control over expenses!
- Let's send a message to the convention that the sleeping tiger has awakened.

Phone: 714-532-5878



--- They won't support the leadership; they will vote the way you want ---

**** Clyde Craig ****

- Open meetings to all members at all times.
- A member can go into any meeting and listen!
- Never heard of before!

Phone: 818-281-2007



Let's Take Our Union Back ?