



OFFICE OF THE ELECTION OFFICER
INTERNATIONAL BROTHERHOOD OF TEAMSTERS
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Michael H. Holland
Election Officer

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March 11, 1991

VIA UPS OVERNIGHT

James Cirillo
53 Roehra Drive
Wallington, New Jersey

Ken Bohan
c/o Teamsters for Teamsters
c/o Local 560
707 Summit Avenue
Fifth Floor
Union City, New Jersey 07087

Daniel Sciarra
President
Teamsters Local 560
707 Summit Avenue
Fifth Floor
Union City, New Jersey 07087

Re: Election Office Case No. P-605-LU560-NJE

Gentlemen

A pre-election protest was filed pursuant to Article XI, Section 1 of the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("*Rules*") by James Cirillo. In his protest, Mr. Cirillo alleges that campaign flyers distributed by Ken Bohan, the Local 560 internal caucus known as "Teamsters for Teamsters" and/or the "Membership Slate", a slate of delegate and alternate delegate candidates supported by Teamsters for Teamsters, contained many false statements, including slanderous accusations about the current leadership of Local 560. Mr. Cirillo contends that the distribution of this literature is unfair to Local 560's officers and detrimental to the election process.

Whether Ken Bohan, Teamsters for Teamsters or the Membership Slate authored or distributed the campaign literature in question is not pertinent to the determination of Mr. Cirillo's protest. The only relevant issue is whether distribution of these campaign flyers violated the *Rules*. Thus, the Election Officer makes no findings of fact as to the identity of either the authors or distributors of the literature.

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

James Cirillo
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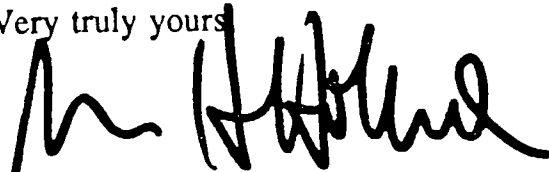
in question does not purport to be the official voice of the organization, as opposed to being the opinion of candidates or their supporters, inquiry will not generally be made as to its truthfulness

Thus, the fact that the campaign literature allegedly contains false, irrelevant or even defamatory information does not remove it from the protection of the *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 of encouraging robust political debate in the selection of delegates and International Officers of the IBT is reflected in the *Rules*' prohibition against the censorship of campaign literature See *Rules*, Article VIII, Section 6(g) Thus, neither the preparation or distribution of the campaign flyers here at issue violated the *Rules*

For the reasons stated above, the protest must be DENIED

If any person is not satisfied with this determination, he may request a hearing before the Administrator within twenty-four (24) hours of his receipt of this letter Such request shall be made in writing and shall be served on Administrator Frederick B Lacey at LeBoeuf, Lamb, Leiby & MacRae, One Gateway Center, Newark, N J 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 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

Very truly yours



Michael H Holland

MHH/mca

cc Frederick B Lacey, Independent Administrator
Edward T Ellis, Regional Coordinator