

OFFICE OF THE ELECTION OFFICER  
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Election Officer

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July 18, 1991

**VIA UPS OVERNIGHT**

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Daniel Liguoris  
President  
IBT Joint Council 25  
300 S Ashland Avenue  
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**Re: Election Office Case No. P-735-IBT**

Gentlemen and Ms Davis

A protest was filed with the Election Officer pursuant to Article XI of the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("*Rules*") In his protest, announced candidate for IBT General President Louis D Riga, alleges that the *Rules* were violated as a result of Walter Shea, also an announced, and now nominated, candidate for IBT General President, addressing a meeting of IBT Joint Council 25 The Election Officer's investigation of this protest revealed the following

In his protest Mr Lou Riga, then an announced candidate for General President, alleges that Mr Shea made a 15 minute campaign speech to the IBT officers and members attending the February 12, 1991 Joint Council 25 meeting in Chicago, Illinois While the Election Officer's investigation revealed that Mr Shea did not attend the February 12 meeting, Mr Shea was present at the annual Joint Council "Holiday Celebration" which occurred on December 4, 1990 after the completion of the regular Joint Council monthly meeting Both the Joint Council 25 delegate meeting and the "Holiday Celebration" were held in the Teamsters' Auditorium at 330 South Marshfield, Chicago The investigation also revealed that Mr Shea made a 15 minute presentation, entitled the "State of the Union," after the conclusion of the Joint council meeting, but

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before the start of the "Holiday Celebration "

Mr Shea was invited to the "Holiday Celebration" in his capacity as a Vice President of the IBT. Other than his attendance at the "Holiday Celebration," Mr Shea had no Union-related business in Chicago.

There are 25 Local Unions affiliated with Joint Council 25 and the officers and trustees from each affiliated Local Union serve as delegates to the Joint Council. Approximately 85 Joint Council 25 delegates attended the December meeting. However, since "all the officers, business representatives and office staffs" of the Joint Council and its affiliated Local Unions were invited to the "Holiday Celebration" the audience for Mr Shea's presentation may have exceeded the 85 delegates.

Mr Shea's air fare to Chicago was paid by the IBT. The Joint Council paid Mr Shea's hotel accommodations while he was in Chicago.

Article VIII, Section 10 (c) of the *Rules* provides that union resources may not be used to assist in campaigning unless the candidate reimburses the Union, that such resources are available to all candidates on an equal basis and that all candidates be notified in advance of the availability of such resources. Article VIII, Section 4 (a) (4) of the *Rules* provides that if a Local Union grants access to its meeting for a candidate who is not a member of the Local Union for the purpose of campaigning the Local Union must afford a similar opportunity to all candidates. This policy of equal access and equal treatment is applicable to any meeting or activity sponsored by the IBT or any subordinate body of the IBT.

Mr Shea performed Union business during his trip to Chicago. His speech was clearly intended to further his campaign for General President of the IBT. That a short break was scheduled between the business portion of its meeting and the start of the holiday festivities does not exclude the period of the "break" from the requirements of the *Rules*. The "break," occurring prior to the start of the holiday party, was scheduled to maximize the likelihood that all members attending the Joint Council meeting would remain to hear Mr Shea's speech.

The Election Officer finds that the *Rules* were violated as a result of the campaign address delivered by Mr Shea to the delegates and officers of Joint Council 25 and the business agents and employees of Joint Council 25's affiliated Local Unions. The Election Officer also finds that the payment by the IBT and Joint Council 25 for Mr Shea's travel and lodging expenses was violative of the *Rules*.

To remedy these violations of the *Rules*, the Election Officer orders the following:

1. The President of Joint Council 25 shall invite all nominated candidates for General President of the IBT, with the exception of Mr Shea, to a candidates' forum to be held following the September or October, 1991 regular Joint Council monthly meeting. In addition, the Joint Council shall invite all officers, business agents and staff

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of its affiliated Local Unions to this candidates' forum

2 The invitation shall be made, in writing, no later than August 1, 1991 and each candidate shall respond to the invitation in writing by no later than August 15, 1991. Copies of the invitation and the acceptances shall be provided to the Election Officer

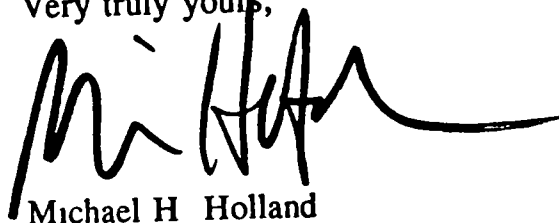
3 Each candidate, or his representative, shall be permitted to make a 15 minute presentation on a topic of their own choosing. The order of presentation shall be determined by lot or in any other manner acceptable to all candidates

4 The International shall pay for the transportation for all nominated candidates to attend the forum. Joint Council 25 shall pay one day's lodging expense for the candidate to attend the forum

5 The Joint Council shall submit an affidavit within ten days after the date of the candidates' forum describing its compliance with this order. In addition, within 10 days of the forum the International shall file an affidavit with the Election Office evidencing payment or reimbursement of the candidate's salary for the day of the forum

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/mjv

cc Frederick B. Lacey, Independent Administrator, IBT

Julie Hamos, Regional Coordinator



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Louis D Riga  
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William J McCarthy, General President, IBT

James T Grady, General Counsel, IBT

IN RE:

LOUIS D. RIGA,  
WALTER SHEA,

AND

IBT JOINT COUNCIL 25

91 - Elec. App. - 173 (SA)

DECISION OF THE  
INDEPENDENT  
ADMINISTRATOR

This matter arises out of an appeal from a decision of the Election Officer in Case No. P-735-IBT. A hearing was held before me at which the following persons were heard via telephone conference: Sherman Carmell, an attorney on behalf of Joint Council 25; Robert Baptiste, an attorney on behalf of Walter Shea; Hugh Beins, an attorney on behalf of R.V. Durham ("Durham"); Susan Davis and Richard Gilberg, attorneys on behalf of Ron Carey ("Carey"); James T. Grady, on behalf of the IBT; Julie Hamos, the Election Officer's Regional Coordinator; and John J. Sullivan and Barbara Hillman, attorneys on behalf of the Election Officer.

At the 1991 IBT Convention, Louis Riga, the complainant herein, lost his bid to be nominated as a candidate for General President. Walter Shea is currently an IBT Vice-President and a candidate for General President. Durham is also an IBT Vice-President and a candidate for General President. Carey, while not an incumbent International Officer, is the third General President candidate.

In his protest, Riga alleged that Shea violated the Rules For The IBT International Union Delegate And Officer Election (the "Election Rules") by appearing, at the expense of the IBT and Joint

Council 25, at a function held by Joint Council 25 in order to deliver a campaign address.

### **The Provisions Of The Election Rules**

This protest implicates four provisions of the Election Rules.

Article VIII, Section 10.c. provides that:

Union<sup>1</sup> funds, facilities, equipment, stationery, etc. may not be used to assist in campaigning unless the candidate reimburses the Union for such costs and such goods and services are equally available to all candidates and all candidates are notified in advance of the availability of such goods and services.

Similarly, Article X, Section 1.a.(3) provides in pertinent part:

No Union funds or goods shall be used to promote the candidacy of any individual. Use 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 4.a.(1) provides:

No candidates may be denied access to any meeting of the Local Union to which he/she belongs as a member; however, the Local need not grant such candidate the opportunity to address the meeting for the purpose of campaigning unless a similar opportunity is granted to other candidates.

Lastly, Article VIII, Section 10.b. provides that:

All union officers and employees, if members, retain the right to participate in campaign activities, including the right to run for office, to openly support or oppose any candidate, to aid or campaign for any candidate, and to make personal campaign contributions. However, such campaigning must not involve the

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<sup>1</sup> The term "Union" is defined by the Election Rules as "the International Union, all Local Unions and all other subordinate bodies, unless explicit distinction is made." Election Rules, Definition (39) at p. A-8.

expenditure of Union funds. Accordingly, members, officers and employees of the Union may not campaign on time that is paid for by the Union. Campaigning incidental to regular Union business is not, however, violative of this section . . .

#### **The Joint Council 25 Meeting And Holiday Celebration**

On the morning of December 4, 1990, Joint Council 25 held its monthly meeting in the basement of its offices located in Chicago. Approximately 85 of the officers and trustees from the affiliated Local Unions who serve as delegates to the Joint Council attended the meeting. The meeting adjourned at approximately 12:00 noon, at which time Daniel C. Ligurotis, President of Joint Council 25 and a candidate for General Secretary-Treasurer on the Shea-Ligurotis ticket, announced that Shea was in the building and that if any of those in attendance wished to hear Shea they should not leave the meeting room as Shea would address the assembly momentarily. Ligurotis then left the meeting room and returned with Shea who proceeded to speak to the delegates for approximately fifteen minutes addressing the "State of the Union."

Following Shea's presentation the Joint Council 25 delegates, along with Shea and Ligurotis, went to a different building to attend the Joint Council 25 "Holiday Celebration."<sup>2</sup> Officers, business representatives and office staff of the Joint Council and

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<sup>2</sup> In the Election Officer's decision, he indicated that the Holiday Celebration immediately followed the Joint Council 25 meeting and took place in the same room. Joint Council 25's attorney clarified this at the hearing.



its affiliated Local Unions attended that Celebration. A number of Chicago political dignitaries were also in attendance.

Although all the members of the IBT General Executive Board were invited to attend the Holiday Celebration, only Shea and Vice-President Jack Cox attended. Cox is an IBT Vice-President and a candidate for Vice-President on the Shea ticket. All "VIPs" in attendance at the Holiday Celebration, including Shea, were introduced to the other guests. Shea delivered a brief salutation.

#### **The Election Officer's Ruling**

The Election Officer determined that Shea's December 4 appearance in Chicago and his presentation to the Joint Council delegates at the conclusion of their morning session, was a campaign stop. The Election Officer also ruled that "Shea performed no Union business during his trip to Chicago." Lastly, the Election Officer found that the expenditure of IBT and Joint Council resources to fund Shea's trip to Chicago for purposes of campaigning also violated the Election Rules.

As a remedy the Election Officer directed Joint Council 25 to invite the other two nominated candidates for General President -- Durham and Carey -- to a candidates' forum to be held following the September or October 1991 monthly meeting of the Joint Council. Although the Election Officer had originally directed the Joint Council to invite all those who attended the Holiday Celebration to the candidates' forum, at the hearing before me he modified that directive to limit the invitation to just those individuals who

attended the morning delegate session. At the forum both Durham and Carey, or their representatives, shall be permitted to make a fifteen-minute presentation on a topic of their own choosing.

Lastly, the Election Officer directed that the travel expenses of the two invited candidates should be defrayed in the same manner as were Mr. Shea's expenses, i.e., "the International shall pay transportation expenses, and Joint Council 25 shall pay one day's lodging expenses per candidate." At the hearing, however, the Joint Council's attorney stated that the Joint Council had not paid for Shea's lodging expenses. Shea's counsel could not shed any light on the question of who paid for Shea's lodging. The IBT's attorney did not have any information available at the hearing regarding the IBT's payment of Shea's expenses. I asked the IBT to research its records in this regard and contact my office with its findings. The IBT's records reflect that it paid for Shea's round trip air fare to Chicago. It also appears that Shea's lodging expenses were defrayed by his \$130 per diem that he received from the IBT.

The Election Officer's decision is reversed in part and his remedy is modified accordingly.

#### **Discussion**

There are several issues presented on this appeal. Initially, we must determine whether Shea's presentation to the Joint Council delegates following their morning session constituted campaign activity. I agree with the Election Officer that it did. I reject

Shea's and Joint Council 25's attempt to characterize that presentation as impromptu and off-the-cuff. It is clear that Shea's appearance before the delegates was orchestrated and prepared. Shea had no other legitimate Union business before the Joint Council delegates.

Does this mean that the International could not pay for Shea's expenses associated with his trip to Chicago? Before we can answer that question we must first address two others. First, we must determine whether the Holiday Celebration was a Union function that Shea could attend in his official capacity as an IBT Vice-President. The position advanced by Shea and the Joint Council is that the Holiday Celebration is a time-honored tradition that has been attended by the IBT leadership over the many years. Thus, it is argued that Shea, as a member of the General Executive Board, is entitled to attend the celebration and treat the function as official Union business.

I find that it is fair to characterize the Holiday Celebration as an official Union function. Shea attended that Celebration, in his official capacity, as a member of the General Executive Board. Accordingly, the Election Officer's conclusion that Shea "performed no Union business during his trip to Chicago," is unduly harsh. The Holiday Celebration, although social in nature, is clearly the type of function that incumbent Union Officers may feel obligated to attend as part of their official duties. The fact that the Holiday Celebration constituted Union business is further supported

by the fact that no one questioned or challenged Cox's attendance at the function. Cox, like Shea, is an incumbent International Officer and a candidate for International Office. See, In Re: Worley, Case Nos. P-236-LU572-CLA et al., Decision of the Election Officer (January 28, 1991) (Wherein the Election Officer recognized that "International Officers must, as part of their official responsibilities, travel and meet with groups of IBT officers and members.")

Second, we must also determine whether Shea "campaigned" at the Holiday Celebration. There was no allegation that Shea used his appearance at the Holiday Celebration as a campaign platform. His comments to those in attendance were brief and generic in nature. Thus, I find that any "campaigning" that Shea may have done at the Holiday Celebration was "incidental to regular Union business" and, thus proper under the Election Rules. See Article VIII, Section 10b.

What are we faced with then? We have Shea making an unequivocal campaign stop at the close of the Joint Council delegates' morning session, then we have him attending a Holiday Celebration in his official capacity later that same day. Shea had a dual purpose for his trip. This scenario is analogous to the situation presented in In Re: Riga, 91 - Elec. App. - 60, Decision of the Independent Administrator (February 6, 1991). In that case, several incumbent International Officers, who were also all International officer candidates, attended an official Union

function in California during the day and in the evening they all attended a campaign fund-raiser on behalf of the Durham campaign with which they were all aligned. It was charged that the use of IBT funds to send those individuals to California violated the Election Rules' prohibition against expenditure of Union funds to promote a candidacy. In In Re: Riga, I upheld the Election Officer's approach that in deciding whether the IBT could properly fund each officer's trip, a factual determination must be made whether they would have participated in the official Union function, if there were no campaign fund-raiser held that same evening. There is no reason to depart from this standard in determining whether the IBT could pay for Shea's trip to Chicago.

Applying this analysis, I find that Shea would have attended the Holiday Celebration even if he was not given the opportunity to address the Joint Council delegates. I make this determination based on the political realities of the situation. Ligurotis is Shea's partner on the Shea-Ligurotis campaign ticket. Ligurotis is also the President of Joint Council 25. I simply do not believe that Shea would have rebuffed such an invitation from Ligurotis.

Accordingly, the International could properly expend Union funds to send Shea to Chicago and provide him lodging so that he could attend the Holiday Celebration. The campaign speech given earlier in the day by Shea to the Joint Council delegates, although pre-planned, was not a pretext for Shea attending the Holiday Celebration. Stated another way, the Holiday Celebration was not

a convenient excuse for Shea to charge the IBT for his cost of delivering his speech to the Joint Council delegates -- the purpose of the Chicago trip was first and foremost to attend the Holiday Celebration. Shea, on his own time, prior to the commencement of the Holiday Celebration, seized upon the opportunity to address the Joint Council delegates. This is no different than what the incumbent International Officers did in In Re: Riga.

Our analysis, however, does not end here. It is clear that Joint Council 25 extended to Shea the opportunity to address the Joint Council meeting. I do not consider it significant that Ligurotis first went through the exercise of "adjourning" the meeting before summoning Shea. The fact remains that Shea was permitted to deliver a campaign speech to the Joint Council delegates at their monthly meeting. It is also undisputed that the other two General President candidates were not given that same opportunity.

Article VIII, Section 4.a.(1) of the Election Rules provides that a "Local need not grant such candidate the opportunity to address [a] meeting for the purpose of campaigning unless a similar opportunity is granted to other candidates." While this provision specifically refers to Local Union meetings, the Election Officer has construed it to apply to Joint Council delegate meetings as well. See In Re: Worley, supra. It is clear that the import of this provision is to safeguard the rights of candidates to equal access for political purposes to meetings of IBT members. Id.

This construction is consistent with the other provisions of the Election Rules which guarantee candidates equal access to Union resources and facilities. See Election Rules, Article VIII, Section 10.c; Article X, Section 1.a.(3).

Thus, I find that Joint Council 25 violated the Election Rules by allowing Shea to address its delegates at its monthly meeting without providing that opportunity to the other two General President candidates.

#### **The Remedy**

We now turn to the issue of remedy. It is clear that Durham and Carey must be given the opportunity to address the Joint Council 25 delegates at one of their monthly meetings. I agree with the Election Officer when he states that it would not be sufficient to offer Durham and Carey the opportunity to travel, at their own expense, to a Joint Council 25 meeting because they may well not have chosen to expend their campaign resources in this matter at this time, but for the actions of Shea.

The Election Officer's solution to the problem of defraying expenses is two-fold. First, he directed that since the IBT paid the air fare of Shea, it should also do the same for Durham and Carey. This directive ignores the fact that the IBT acted properly when it paid Shea's expenses associated with attending the Holiday Celebration in his official capacity. There is simply no reason to have the IBT pay the tab for Durham and Carey because Shea took it upon himself, once he was in Chicago, to abuse the Election Rules.

In addition, the Election Officer also ordered Joint Council 25 to pay for Durham's and Carey's hotel costs. This directive was based on the incorrect assumption that the Joint Council paid for Shea's hotel cost. We now know that Shea's lodging was subsumed in his IBT per diem.

The only just remedy here is one that both punishes the wrongdoers and makes the two aggrieved candidates whole. It is clear that Shea and Ligurotis, political allies, acted together to provide Shea the opportunity to make his presentation at the Joint Council monthly meeting to advance their own political aims. Thus, it is the Shea-Ligurotis campaign that should bear the cost of transporting the other candidates to Chicago and providing them with lodging.

#### **Conclusion**

Accordingly, the Election Officer's ruling is modified as follows:

1. Ligurotis, as President of Joint Council 25, shall invite Durham and Carey to a candidates' forum to be held following the September or October 1991 regular Joint Council monthly meeting. In addition, the Joint Council shall invite all the Joint Council delegates to the forum as well as any other individuals that were in attendance at the December 4, 1990, meeting.
2. The invitation shall be made in writing, no later than August 9, 1991, and Durham and Carey shall respond to the invitation in writing no later than August 19, 1991. Copies of the

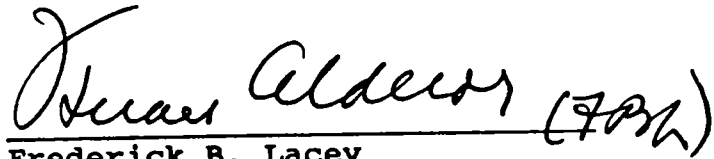


invitation and the responses shall be provided to the Election Officer.

3. Durham and Carey, or one representative of each, shall each be permitted to make a fifteen-minute presentation on a topic of their own choosing. The order of presentation shall be determined by lot or in any other manner acceptable to Durham and Carey.

4. The Shea-Ligurotis campaign shall pay for the round-trip air-transportation of Durham and Carey, or their representatives, to attend the forum. The Shea-Ligurotis campaign shall also pay for one day's lodging expense.

5. Joint Council 25 and the Shea-Ligurotis ticket shall submit an affidavit to the Election Officer within ten days after the date of the candidates' forum describing their compliance with this order.

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

Dated: August 1, 1991