

OFFICE OF THE ELECTION OFFICER
% INTERNATIONAL BROTHERHOOD OF TEAMSTERS
25 Louisiana Avenue, NW
Washington, DC 20001

Michael H. Holland
Election Officer

(202) 624-8778
1-800-828-6496
Fax (202) 624-8792

August 14, 1991

VIA UPS OVERNIGHT

Gerald Moerler
13104 Glen Ct. #40
Chino Hills, CA 91709

Michael J. Riley
President
IBT Joint Council 42
1616 W. Ninth St.
Room 500
Los Angeles, CA 90015

R. V. Durham
c/o Hugh J. Beins, Esquire
Beins, Axelrod, Osborne
& Mooney
2033 K St., NW
Suite 300
Washington, D.C. 20006-1002

Robert Marciel
Secretary-Treasurer
IBT Local Union 63
1616 W. Ninth St.
Room 205
Los Angeles, CA 90015

Everett J. Roberts
International Representative, IBT
3345 Harrison Ave.
Butte, MT 59701

Re: Election Office Case No. P-829-LU63-CLA

Gentlemen:

A protest was filed with the Election Officer pursuant to the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("*Rules*") by Gerald Moerler, a member of Local Union 63. In his protest, Mr. Moerler contends that IBT Joint Council No. 42 violated the *Rules* by the content of its July 10, 1991 edition of "Southern California Teamster." Mr. Moerler contends that the coverage of the 1991 IBT International Union Convention contained in the July 10, 1991 issue of "Southern California Teamster" is heavily biased in favor of R.V. Durham, a candidate for General President of the IBT, and the other International Union officer candidates aligned with him.

The *Rules* provide in Article VIII, § 7 that "No Union-financed publication or communication may be used to support or attack the candidacy of any person . . ." Thus, the *Rules* state that "the Union newspaper or publication shall not:

- (a) use a larger or more attractive picture of someone than had previously been used if that person is a candidate, unless there is a valid journalistic reason for it;

- (b) print uncomplimentary pictures of any candidate;
- (c) print features and accompanying photographs about insignificant or unnewsworthy events in which the accomplishments or qualities of any candidate are heralded; or
- (d) carry a substantial number of articles or pictures featuring a particular candidate, unless all candidates for the same position are given equal treatment, equal space and equal prominence."

In accordance with the prohibitions contained in the *Rules*, the Election Officer has determined that the inclusion in a Union newspaper or other publication of pictures or articles stating or indicating support of the candidacy of a particular candidate, prominent photographs of a particular candidate, numerous photographs of the same candidate accompanying a single article, numerous articles in the same edition about a particular candidate and/or pictures or articles reporting on the activities of one candidate, where the same or similar activities of other candidates have not been similarly reported, will be considered to constitute a violation of the *Rules*. See Advisory on Union Publications, dated December 21, 1990.

Review of the July 10, 1991 issue of the "Southern California Teamster" reveals, however, that the *Rules* were not violated. All reports are factual. The nomination results for all candidates nominated at the 1991 IBT International Union Convention who will appear on the International Union officer election ballot are reported, in the order in which such candidates' names appeared on the nomination ballot. Highlighting the nomination results for the two top offices of the Union does not violate the *Rules*; the candidates for General President and General Secretary-Treasurer may properly be considered to deserve greater prominence than the candidates for Vice President. The minor arithmetic (or better, rounding) errors with respect to the percentage of the delegate vote received by each of the candidates for General President and Secretary-Treasurer are insufficient to demonstrate inappropriate support. Indeed, the arithmetic or rounding errors with respect to the candidates supported by the protestor are each less than a percentage point.

The headline of the article covering the nomination results for General President also does not violate the *Rules*. The headline is factual and, while appearing on the front page of the newspaper, is not the most prominent headline on that page. That the article identifies nominated General President candidate Ron Carey's Local as a United Parcel Service Local is not denigrating to his campaign; campaign literature prepared by Mr. Carey and distributed in support of his campaign prominently notes the composition of his Local Union and highlights the benefits he has obtained for the United Parcel Service members in his Local.

The July 10, 1991 of the "Southern California Teamster" reports on two matters which were brought before the delegates at the 1991 IBT International Union Convention. There is no obligation under the *Rules* for a Union publication to report on everything that happens at the Convention or at any other Union function., and it should be noted that items which are covered in the "Southern California Teamster" are

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among the three or four items featured most prominently in general press coverage of the Convention.

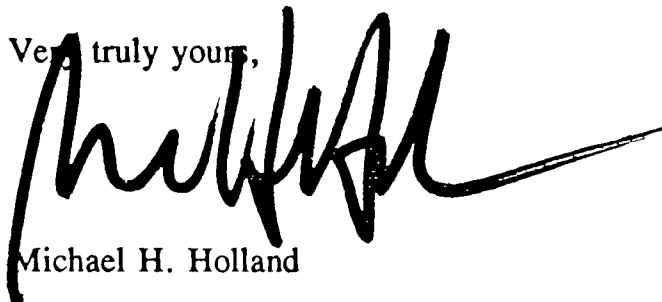
That the publication fails to identify the sponsors of the Constitutional amendment increasing strike benefits while noting that the proposal to lower the salaries of the General President and General Secretary-Treasurer was that of Mr. Durham also does not violate the *Rules*. The *Rules* do not require that a Union publication note the sponsors or supporters of all motions made or passed at any Union meeting. The reference with respect to Mr. Durham is factual, appears at the end of the article regarding the General President nomination results, and does not otherwise emphasize Mr. Durham's role.

A review of the reports from the various Local Unions affiliated with Joint Council 42 found in the July 10, 1991 edition of "Southern California Teamster" also reveals no violations of the *Rules*. The reports are all factual. None of the reports feature the names of any candidates nominated for a particular International Union office who will appear on the election ballot without also mentioning the names of all other candidates nominated for that same office. One Local Union report, in addition to giving the results of the International Union Trustee election, also notes that one of the elected Trustees, Ben Leal, is from the Western Conference. However, the election for International Union Trustee is over. Further, the article does not even mention the slate on which Mr. Leal ran for International Union Trustee.

In accordance with the foregoing, 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/mjv

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