

OFFICE OF THE ELECTION OFFICER
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Michael H Holland
Election Officer

October 29, 1991

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VIA UPS OVERNIGHT

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Westley D. McDaniel
President
IBT Local Union 147
2425 Delaware Avenue
Des Moines, IA 50317

Al Tucker
President
Teamsters Retiree Chapter 147
c/o IBT Local Union 147
2425 Delaware Avenue
Des Moines, IA 50317

Re: Election Office Case No. P-983-LU147-MOI

Gentlemen:

A protest was filed pursuant to Article XI of the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("*Rules*") by Keith Jones, a member of Local Union 878 and a supporter of the International Union officer candidates on the Ron Carey Partnership Slate. Mr. Jones contends that a newsletter published by Teamsters Retiree Chapter 147 contains campaign material on behalf of the R. V. Durham Unity Team in violation of the *Rules*. Mr. Jones is not a member of Local 147 nor of Retiree Chapter 147. He received a copy of the newsletter from another IBT member when they met in a coffee shop on the road. The protest was investigated by Regional Coordinator Michael Gordon.

Review of the newsletter in question reveals that it does contain campaign material on behalf of the for R. V. Durham Unity Team. Specifically, the newsletter contains an invitation to the members of Retiree Chapter 147 to attend a meeting where R. V. Durham, Larry Brennan, and Robert Sansone, all candidates for International office, were scheduled to speak. In addition, the article urges that the retirees both buy and sell tickets to this event, which is characterized as a fundraiser. The issue is whether Teamsters Retiree Chapter 147 is prohibited from publishing campaign materials in its newsletter by the *Rules*. For the reasons set forth below, the Election Officer determines that it is not.

Article 10, § 1 of the *Rules* prohibits Union funds or goods to promote the candidacy of any individual. Article XIII, § 7 specifically prohibits the use of Union-financed publications or communications to support or attack the candidacy or any person. Retiree Chapter 147, however, is not the Union, as that term is defined in the *Rules*.

Retiree Chapter 147 was established in June, 1985. It is chartered by the Retiree Department of the IBT. Any IBT retiree whose former Local has no retiree chapter may join Retiree Chapter 147. No retiree is required to join Retiree Chapter 147 or any other retiree chapter. Membership is totally voluntary and does not affect retiree rights, such as pension or health and welfare benefits. Retirees, whether or not members of a retiree chapter, are not IBT members and cannot vote in the IBT International Union officer election. Retiree Chapter 147 has its own constitution and by-laws, adopted by its membership. Its members elect its own officers; Chapter officer elections are conducted independently and separately from elections for any IBT subordinate body. The Chapter's officers are unpaid volunteers.

Retiree Chapter 147 is funded from the dues and initiation fees of its members; these payments are entirely voluntary since no retiree is required to join or remain a Retiree Chapter 147 member. Retiree Chapter 147 has approximately 300 members who pay such initiation fees and annual dues to the organization. These monies are used by the chapter to purchase supplies and equipment, conduct chapter meetings, prepare and distribute a newsletter, pay for postage, reimburse expenses and the other costs associated with its operations.

Retiree Chapter 147's office is located in Local 147's Union hall. The Chapter does not pay rent to the Local. The Chapter also utilizes, without reimbursement, the phone system installed and maintained by Local 147. Retiree Chapter 147 receives no other benefits from Local 147. All stationery, paper for its newsletter and the like are bought by Retiree Chapter 147, which uses its own funds for such purchase.

As noted above, Retiree Chapter 147 is chartered by the Retiree Department of the IBT. The IBT similarly charters all retiree chapters. While the IBT and its Retirement Department are resources available to Retiree Chapter 147 and all similarly chartered retiree chapters, the retiree chapters receive no direct funding from the IBT. The IBT does, however, provide all retiree chapters, including Retiree Chapter 147, with mailing labels for each such chapter's members generated through the TITAN system.

Retiree Chapter 147, and all retiree chapters, being voluntary associations of retired IBT members, membership in which is not compulsory, fall within the ambit of a caucus as defined by the *Rules*. Accordingly, as a caucus, Retiree Chapter 147 may make campaign contributions on behalf of a candidate for International Union officer,

or a slate of candidates, provided that the organization with respect to its campaign activities is financed exclusively from contributions from persons or entities permitted to make campaign contributions under Article X of the *Rules*. See *Rules*, Article X, § 1(b)(5); see also Election Office Case No. P-249-LU283-MGN, affirmed 91-Elec.App.-158.

The Election Officer investigation found that the newsletter here at issue was financed by Retiree Chapter 147 with its own funds, that is, funds it obtained from membership initiation fees and dues. All equipment utilized in preparing the newsletter with equipment owned by the Retiree Chapter and purchased by it. Similarly, the Retiree Chapter used its own funds for the cost of postage connected with the distribution of the newsletter. However, Retiree Chapter 147 utilized one set of the labels provided it by the IBT to mail the newsletter to the Retiree Chapter's membership. These mailing labels were prepared by the IBT at the IBT's cost. Since the labels were then used by Retiree Chapter 147 to mail the newsletter which contained campaign materials on behalf of the R. V. Durham Unity Team, the newsletter distribution was not financed wholly from the Retiree Chapter's resources accumulated from persons and entities entitled to make campaign contributions under the *Rules*. Retiree Chapter 147 must reimburse the IBT for the cost of the mailing labels utilized by the Retiree Chapter to mail the newsletter. Such reimbursement will remedy the improper resources utilized by the Retiree Chapter in mailing the newsletter containing campaign material. See Election Office Case No. P-249-LU283-MGN, affirmed 91-Elec.App.-158.

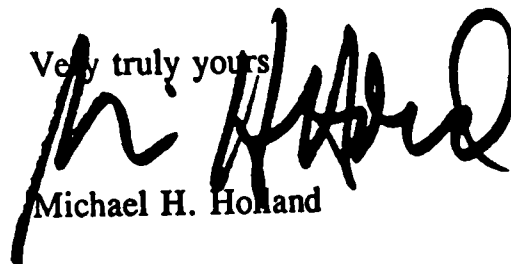
Within seven days of the date of this letter, Retiree Chapter 147 shall reimburse the IBT for the cost of one set of mailing labels. Within three days thereafter, Retiree Chapter 147 shall submit an affidavit to the Election Officer documenting that it has reimbursed the IBT, including documentation of the amount so reimbursed.¹

¹ As a caucus entitled to make campaign contributions under the *Rules*, and as a caucus which has made campaign contributions under the *Rules*, Retiree Chapter 147 is obliged to file with the Election Officer campaign contribution and disclosure reports. See Advisory on Campaign Contributions and Disclosure, issued August 14, 1991, at pages 25-27. Accordingly, if Retiree Chapter 147 has received in excess of \$1,000.00 since April 28, 1991 - as the Election Officer expects it has - or made campaign expenditures in excess of \$1,000.00 - including the costs associated with the newsletter at issue in this protest - Retiree Chapter 147 is obligated to file a Campaign Contribution and Expenditure Report, including Supplemental Form No. 1. It should be noted that if the entirety of all money received by Retiree Chapter 147 since April 28, 1990 is in excess of \$1,000.00, even assuming that less than \$1,000.00 was raised or spent for campaign purposes, reports must be filed.

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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

Michael D. Gordon, Regional Coordinator

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