



OFFICE OF THE ELECTION OFFICER  
% INTERNATIONAL BROTHERHOOD OF TEAMSTERS  
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Election Officer

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April 16, 1991

**VIA UPS OVERNIGHT**

James A. Benson  
c/o The Teamsters For Reform Slate  
2425 W. Banff Ln  
Phoenix, AZ 85023

W. Terry Moser  
Secretary-Treasurer  
c/o The Delegates For Working  
Teamsters of Arizona Slate  
IBT Local Union 104  
1450 S. 27th Ave  
Phoenix, AZ 85009

**Re: Election Office Case No. Post-67-LU104-RMT**

Gentlemen

Terry Moser filed two post-election protests pursuant to the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("Rules"). In his first protest, Mr. Moser, a candidate for delegate in the Local 104 delegate and alternate delegate election, alleged that the *Rules* were violated by the failure of the Election Officer to properly implement his decision in Election Office Case Nos. P-645-LU104-RMT and P-647-LU104-RMT. Mr. Moser contended that the campaign literature for his slate, the Working Teamsters of Arizona, was not mailed as required by those decisions. After the Election Officer's investigation determined that all mailings required by the Election Officer's previous decision had been accomplished, Mr. Moser sought to withdraw his protest. The Election Officer, finding that withdrawal is in accordance with the *Rules*, grants the request to withdraw.

Mr. Moser's second protest contends that Rod Brasch, also a candidate for delegate, campaigned on company paid-for time in that Mr. Brasch used his CB radio during work time to gather support for his candidacy from other members of Local 104.

Mr. Brasch was a successful candidate for election as delegate from Local Union 104. Local 104 elected nine delegates and six alternate delegates. The tally was as follows:

TEAMSTERS FOR  
REFORM SLATE  
(Delegates)

James A Benson	1299
Cliff Davis	1336
Donald Swartwood	1328
Howard Borgan	1268
John D Reynolds	1325
Richard Esquivel	1301
Rodney E Brasch	1257
Kenneth Colombo	1285
David D Kuno	1237

(Alternates)

Terry C Askey	1347
Larry G Manire	1302
John W Floyd	1333
Vaughn Hoagland	1276
W Stuart Carson	1328
Melvin R Milton	1321

DELEGATES FOR WORKING  
TEAMSTERS OF AZ STATE  
(Delegates)

W Terry Moser	996
James R Goodwin	924
Virgil D Hunt	936
George Gaboriault	912
Frank Vasquez	933
Maurice F Nelson	876
William Kirkeby	883
Linda Hall	971
Luis Ortiz	903

(Alternates)

Jesus Hernandez	957
Edie Shipton- Probasco	924
Robert Jones	927
Allen Garcia	913
Robert Shetler	944
Michael D Glover	932

INDEPENDENT  
CANDIDATES  
(Delegates)

Dick Brown	119
Joseph Mish	126
Bill Ray	104

(Alternates)

The protestor, Mr Moser, was the tenth ranked delegate candidate 241 votes separated him the ninth ranked delegate candidate, David D Kuno Mr Brasch had 261 more votes than did Mr Moser

The Election Officer investigation determined that Mr Brasch is an employee of the Safeway Company and works as a driver for that company His truck is outfitted with a company-supplied CB radio

The Election Officer's investigation further revealed that there has been a long-standing custom and practice, which is tolerated if not explicitly permitted by Safeway, whereby drivers are allowed to use their CB radios for other than official company business, such as personal conversations, Union business, Union politics, and the like. The content of these CB communications often included what witnesses termed "bitchin' and moanin'" about the Union and intra-Union politics. The investigation indicates that Mr Brasch used the CB radio during the campaign period to make these types of comments as opposed to explicitly seeking votes for his candidacy

Assuming, however, that Mr Brasch engaged in explicit campaigning on the CB radio, the *Rules* still would not have been violated. Article VIII, § 10 of the *Rules* provides in pertinent part that "no candidate or member may campaign during his/her working hours. Campaigning incidental to work is not, however, violative of this section." There is no allegation, and the Election Officer uncovered no evidence that

James A Benson  
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Mr Brasch failed to perform his work for his employer, deviated from his prescribed route, interfered with his or anyone else's work, or otherwise acted inconsistently with his job obligations because he used the CB radio

Use of a CB radio, while otherwise working, falls clearly within the parameters of incidental campaigning. It is exactly the type of normal "shop talk" the Rule on incidental campaigning was meant to exclude from the category of prohibited employer or Union contributions. Accordingly, there has been no violation of the *Rules* and this 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  
Bruce Boyens, Regional Coordinator