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December 6, 1990

VIA UPS OVERNIGHT

David A. Eckstein
687 Nowlin Avenue
Lawrenceburg, Indiana 47025

Kenneth M. Foster
Secretary-Treasurer
IBT Local Union 661
2100 Oak Road
Cincinnati, Ohio 45241

Re: Election Office Case No. P-058-LU-661-SCE

Gentlemen:

A pre-election protest was filed pursuant to the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("Rules"). The protest concerns internal union charges filed against Mr. Eckstein and six other members of 661 by Mr. Foster and six other members of the Executive Board of Local Union 661. The protest alleges that the intent behind the filing of these internal charges is to prevent Mr. Eckstein and the other members against whom charges were brought from running for IBT International Convention delegate or alternate delegate.

The internal union charges, a copy of which is attached, accuse Mr. Eckstein and six other charged members with making false, derogatory, and/or slanderous statements about the incumbent Officers and Executive Board of Local Union 661. These internal charges indicate that the purportedly wrongful statements were made in connection with an election campaign. Copies of these internal charges were sent to every member of Local Union 661.

The Election Officer's investigation determined that a heavily contested election for Local Union Officers is presently in progress at Local 661. The election ballots were mailed on November 26, 1990, the ballots are to be counted on December 14, 1990.

Local Union 661 did not exercise its option, *see Rules*, Article II, § 2(a), to hold its IBT International Convention delegate and alternate delegate elections during the Fall of 1990. Thus, the nominations for delegates and alternate delegates will occur on February 5, 1991, with the election to be conducted in March, 1991.

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Neither Mr Eckstein or any of the six other Local Union 661 members being charged contend that the literature referenced in the internal union charges was directed toward or concerned the International delegate or officer election process. The only statement that any of the six can recall making, which concerned the International delegate or officer election process, are words to the effect that the Local Union 661 incumbent Officers should not be delegates, as well as not be re-elected as Local Union Officers.

The Election Officer has no jurisdiction over exclusively Local Union Officer Elections. *Rules*, Preamble. Thus, since the internal union charges here relate solely to literature distributed and statements made during an exclusively Local Union Officer Election, none of which referenced the IBT International delegate or officer election process, remedied action is beyond the Election Officer's jurisdiction.

It should be noted, however, that the imposition of internal union discipline for even false, derogatory, or defamatory oral or written utterance is illegal under § 101(a)(2) of the Labor Management Reporting and Disclosure Act. See, e.g., Petramale v. Local 17, Laborers Intl. Union, 736 F 2d 13, 116 LRRM 2654 (2d Cir. 1984), Rollison v. Hotel, Motel, Restaurant & Construction Camp Employees, Local 879, 677 F 2d 741, 110 LRRM 2489 (9th Cir. 1982); Semancik v. United Mine Workers of America, 466 F 2d 144, 80 LRRM 3475 (3d Cir. 1972). Thus, the Election Officer will disregard any discipline imposed as a result of these internal union charges with respect to the eligibility to run, nominate, second nominations, or vote in the International Union delegate and officer elections.

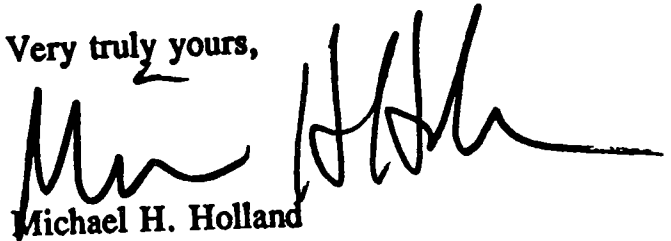
Further it is possible, albeit undeterminable at the present time, that these internal charges -- particularly given their wide distribution -- may effect the IBT International Convention delegate and alternate delegate election at Local Union 661. Therefore, the Election Officer will accept, investigate, and decide further pre-election or any timely filed post-election challenges based in whole or in part on the filing, dissemination or disposition of the internal union charges at issue here.

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 the Independent Administrator, Frederick B. Lacey, at LeBoeuf, Lamb, Leiby & MacRae, One Gateway Center, Newark, New Jersey 07102-

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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, International Brotherhood of Teamsters, 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/kpm

cc: Frederick B. Lacey, Independent Administrator, IBT
Peggy A. Hillman, Election Office Regional Coordinator