



OFFICE OF THE ELECTION OFFICER
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Michael H. Holland
Election Officer

Chicago Office:
% Cornfield and Feldman
343 South Dearborn Street
Chicago, IL 60604
(312) 922-2800

December 7, 1990

VIA UPS OVERNIGHT

John F. Downey
President
IBT Local Union 55
650 Beacon Street
Room 608
Boston, MA 02215

Carmen Santoro Jr.
17 Hovey Street
Quincy, MA 02169

Re: Election Office Case No. P-059-LU55-ENG

Gentlemen:

A post-election protest filed pursuant to the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("*Rules*"). The protest was filed by Carmen Santoro, Jr., the incumbent Secretary-Treasurer of Local Union 55 and an unsuccessful candidate for IBT International Convention delegate from Local 55. The protest, set forth in five separately numbered paragraphs, essentially challenges the delegate election on the grounds of (1) an alleged lack of notice of the time and place of the mail ballot pick up and count and (2) the counting of allegedly spoiled ballots. Mr. Santoro also questions the propriety of the number of ballots printed.

I. The "Spoiled" Ballots - Paragraph 2 of the Protest

Local Union 55 was to elect one delegate and one alternate delegate to the 1991 IBT International Convention. The election was a mail ballot election.

The Official Local 55 Tally Sheet, copy enclosed, indicates the election results were as follows:

DELEGATE
 CANDIDATES

TOTALS

R A N K
 ORDER

1. James Duff
2. Paul Crowley
3. Carmen Santoro
4. James Malloy
5. Steven Cyr

104
 21
 89
 29
 12

1
 4
 2
 3
 5

ALTERNATE DELEGATE
 CANDIDATES

TOTALS

RANK
 ORDER

1. John P. Flynn
2. Bradford Kurciviez
3. Daniel Grant
4. Robert Harrington

87
 33
 40
 99

2
 4
 3
 1

The post-election protest states that certain ballots were ripped and torn, taped back together but nevertheless, allegedly improperly, counted. The Regional Coordinator for the New England Region, Elizabeth A. Rogers, who personally supervised the entirety of this election including the ballot count, affirms that the slitting machine utilized in opening the ballot envelopes, in fact, slit or cut 55 ballots. The fact that certain ballots were cut did not compromise the secrecy of the balloting process. To prevent voter disenfranchisement, the tears on these ballots were repaired and the ballots counted.

Further, to resolve this protest, the Election Office recounted the ballots for Local 55's delegate and alternate election, eliminating from such count the 55 ballots here in question. The results of such recount are as follows:

DELEGATE
 CANDIDATES

TOTALS

R A N K
 ORDER

1. James Duff
2. Paul Crowley
3. Carmen Santoro
4. James Malloy
5. Steven Cyr

63
 14
 51
 18
 3

1
 4
 2
 3
 5

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**ALTERNATE DELEGATE
CANDIDATES**

TOTALS

**RANK
ORDER**

1. John P. Flynn
2. Bradford Kurciviez
3. Daniel Grant
4. Robert Harrington

47
16
24
64

2
4
3
1

The results of the election, including the ranking of all delegate and alternate delegate candidates, remain the same. Counting the 55 allegedly spoiled ballots did not affect the outcome of the election. Therefore, this portion of the post-election protest is dismissed. (Rules, Art. XI § 1(b)(2)).

II. Notice - Paragraphs 1 and 5 of the Protest

Mr. Santoro protests that he did not receive written notice of the count and place of counting until 2:30 p.m. on the day of the count and that the notice he received of the rules, ballot count and ballot pick-up was not by certified letter. Under the Rules, there is no requirement that individualized notice of the time or place of the ballot count notice be given to any candidate. Further, there is no requirement that notice be certified.¹

Regional Coordinator Rogers mailed to all candidates a letter, not required to be sent by the Rules, providing additional and further notice to all candidates (a copy of the letter is attached). Mr. Santoro alleges that he did not receive this letter until 2.30 p.m. on the count day. However, Mr. Santoro had actual notice of the time and place of the ballot count:

(1) Mr Santoro is Secretary-Treasurer of Local 55. The Rules, first as proposed, second as final and third as revised, were mailed to him. Accordingly, Mr. Santoro surely had notice of their existence and content.

¹ While the Rules require at Article XI, § 5 that candidates be notified of the times of mail ballot pick-ups, the only allegation here is that such notice was not given by certified letter, not a requirement of the Rules.

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(2) A notice entitled "Nomination - Election Notice - Convention Delegate" was mailed to every member of Local Union 55. That notice stated: "The ballots will be counted on November 14, 1990 at the Local Union Hall, 650 Beacon Street, Boston, Massachusetts."

(3) Mr. Santoro personally attended the nominations meeting.

(4) The election conducted was by mail ballot. The ballot instructions mailed with the ballot to all Local 55 constituted further notice to Mr. Santoro.

(5) The details concerning the sites and time of the ballot count were negotiated with Ann Barry who describes Mr. Santoro as her "boss." The Regional Coordinator met with Ms. Barry on November 9, 1990. At that time the particular room where the count was to be conducted was inspected. With Ms. Barry's notice and permission signs were posted at five locations within the Local Union hall directing candidates and their observers to the specific room where the count was to be held.

Based on the foregoing it is the Election Officer's determination that Mr. Santoro had adequate notice of the all election count-day events. Further, there is no allegation or indication that the lack of candidates or observers at the count affected the outcome of the election (Rules, Art. XI § 1(b)(2)). Thus, this position of the post-election protest must also be dismissed.

III. Notice to Paul Crowley - Paragraph 4

Mr. Santoro complains that the letter, referred to above and attached hereto, mailed by Regional Coordinator Rogers was directed to the "wrong" Paul Crowley.² Mr. Crowley has however filed no protest. It is therefore questionable whether standing exists for this position of the post-election protest.

² There are two Paul Crowley's in Local 55. One has a middle initial; one does not. The nominated candidate Paul Crowley was never identified to the Election Office as having a middle initial. (The posted list of nominated candidates listed Mr. Crowley without a middle initial). The November 9, 1990 letter was mailed to Local 55 member Paul Crowley who had no middle initial. The delegate candidate Crowley, in fact, is the member with a middle initial.

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With respect to the notice issue itself, the statements set forth in Section II above, particularly numbered paragraphs 2, 3, and 4, apply with equal force to the issue of notice to Mr. Crowley and again there is no allegation or indication that the absence of Mr. Crowley or his observers on his behalf affected the outcome of the election (Rules, Art. XI § 1(b)(2)). Accordingly this position of the post-election protest must be dismissed.

IV. The Number of Ballots Printed - Paragraph 3

Mr. Santoro complains that 806 ballots were printed although the Local's membership is 573. Local 55's election was a mail ballot, highly contested and one of the earliest elections supervised by the Election Officer. Therefore, to insure a margin of safety, the Election Officer determined to print 750 ballots.³

All ballots have been accounted for: 806 ballots printed; 573 ballots initially mailed; 5 duplicate ballots mailed; 228 ballots unused. The protest is without merit. Further, the printing of additional ballots did not affect the outcome of the election (Rules, Art. XI, § 2(b)(2)). This portion of the protest is accordingly also dismissed.

In accordance with the foregoing, the entirety of Mr. Santoro's post-election protest is dismissed.

twenty-two (12)
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 07102-5311, 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.

³ The printer printed 56 ballots beyond those ordered.

KEHOE, DOYLE, PLAYTER & NOVICK

MEMO

FROM: Elizabeth A. Rodgers,
New England Region
Election Officer Staff

TO: Teamsters Local No. *55 John Downey,* FAX:
Presiding Officer *617-266-2776*

DATE. *Nov 15, 1990*

REGARDING. ~~Request for materials~~ *Tally sheet.*

Enclosed please find:

- _____ The Election Officer Rules, rev. Aug. 1, 1990
- _____ The Proposed Local Union Plan
- _____ The Approved Local Union Plan
- _____ A Notice of Nomination Meeting
- _____ A Notice of Election (In person)
- _____ A Notice of Election (Mailing)

X Other: *Tally sheet of Nov. 14 1990 election*
for Delegate and Alternate to IBT convention.

Thank you for contacting this office. Please contact us again if and when any other questions arise.

NINE HAMILTON PLACE
BOSTON, MA 02108
(617)338-0070
FAX (617)338-2160

DATE: Wednesday, November 14, 1990
LOCATION: 650 Beacon Street, Boston, Massachusetts

LOCAL 55 TALLY SHEET
COVER SHEET

Election Officer Regional Coordinator: Elizabeth A. Rodgers
Election Office Staff Present: Maureen Geraghty
Peter Hodes
Stephanie Kaminsky
Observers Present: NONE

DELEGATE CANDIDATES	TOTALS	RANK ORDER
1. James Duff	104	1
2. Paul Crowley	21	4
3. Carmen Santoro	89	2
4. James Malloy	29	3
5. Steven Cyr	12	5

Difference between Rank Order 1st & 2nd 15
Number of Challenged Ballots 3

ALTERNATE DELEGATE CANDIDATES	TOTALS	RANK ORDER
1. John P. Flynn	87	2
2. Bradford Kurciviez	33	4
3. Daniel Grant	40	3
4. Robert Harrington	99	1

Difference between Rank Order 1st & 2nd 12
Number of Challenged Ballots 3

BALLOTS PRODUCED:		806
Total Printed	573	
Initial Mailing		
(Returned "Undeliverable" Ballots: 8)		
Duplicates Mailed	5	
Ballots Retained	228	
Ballots Accounted for		806

BALLOTS RECEIVED:		267
Voted Ballots on Election Day	3	
Challenged Ballots	0	
Spoiled Ballots	4	
Void Ballots		
Total Ballots Not Counted		7
Total Valid Ballots Counted		260

DATE: 11/14/90

SIGNED: Elizabeth A. Rodgers
ELIZABETH A. RODGERS
REGIONAL COORDINATOR

LAW OFFICES OF
KEHOE, DOYLE, PLAYTER & NOVICK
NINE HAMILTON PLACE
BOSTON, MASSACHUSETTS 02108
(617) 338 0070

152 LYNNWAY, SUITE 2 C
P.O. BOX 2080
LYNN, MASSACHUSETTS 01903
(617) 599 8188

ROBERT I. DOYLE
STEPHEN I. KEHOE
EDWARD BERKIN
CAROLINE B. PLAYTER
EMILY L. NOVICK
ELIZABETH A. RODGERS
MARK BRONSTEIN
DOUGLAS E. PATRICK

Of Counsel
CHERYL D. BEZIS

November 9, 1990

To all candidates, Local 55:

RE: Observer's Rights for Candidate for Election as Delegate or
Alternate Delegate

Dear Sir:

This is to inform you that you have the right to have at least one observer present at each and every phase of the election process. The observer must be a member in good standing. Observers may be present when the cast ballots are picked up from the prescribed post office box (P.O. Box 2317) at noon of the return date, Wednesday, November 14, 1990, at the J. F. McCormack Post Office, Post Office Square, Boston MA 02108. Such observers have the right to accompany the transfer of such ballots to the location where they are to be counted, at the Local Union Hall, 650 Beacon Street, Boston, MA 02215.

Your observers shall have the right to observe the conduct of the election. Your observers may articulate reasons for challenging the eligibility of any voter to vote, and to enter all vote counting locations.

The right to observe includes the right to observe the unpackaging of the ballots, the check made against the membership list of the eligibility of members desiring to vote, the handling of challenged ballots and the sealing of any ballot boxes.

Observers have the right to observe the counting of the ballots, the tally of the votes and the recording of the final vote count and the counting of the challenged, unused, voided and spoiled ballots. For further detail, see Article IX, OBSERVERS, of the Rules for the IBT international Union Delegate and Officer Election.

Sincerely,


Elizabeth A. Rodgers

I certify that on November 9, 1990, a true and accurate copy of the forgoing document on candidates' rights was mailed to each candidate listed below:

James Duff
39 Tamarock Terrace
Stoneham, MA 02180

Paul Crowley
32 Waterman Rd.
Roslindale, MA 02131

Carmen Santoro
17 Hovey St.
Quincy, MA 02169

James Malloy
6 Berkshire Ave.
Norton, MA 02766

Steven Cyr
159 Sherman St.
Cambridge, MA 02140

John Flynn
1 Speaker Lane
Wenham, MA 01984

Bradford Kurciviez
17 Wompatuck Rd.
Hingham, MA 02043

Daniel Grant
55 Elmwood Park
Quincy, MA 02170

Robert Harrington
5 Hayden Circle
North Billerica, MA 01862

Stephanie Kaminsky

Stephanie Kaminsky

Paralegal for Elizabeth Rodgers