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Michael H. Holland
Election Officer

November 11, 1991

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VIA UPS OVERNIGHT

James R. Jordan
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William E. Howard
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Auburn, WA 98001

Lawrence N. Weldon
Secretary-Treasurer
IBT Local 741
552 Denny Way
Seattle, WA 98109

Re: Election Office Case No. P-1024-LU741-PNW

Gentlemen:

This is a protest filed pursuant to the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("*Rules*"). The protesters, James Jordan and William Howard, were laid off from their jobs at Commercial Carriers, Inc. in January 1991. Despite the layoffs, they continued to pay their dues to their IBT Local so that they could remain members in good standing. They protest the Local's issuance of withdrawal cards to them in October 1991.

The issuance of such withdrawal cards means that Messrs. Jordan and Howard are no longer members in good standing of the Union and therefore not eligible to vote in the 1991 IBT International Officer Election. The protest contends that the Local should not have issued them withdrawal cards and that the Local is issuing withdrawal cards on a discriminatory basis to prevent members who support the candidates on the Ron Carey Slate from voting. The protest was investigated by Adjunct Regional Coordinator Patty Warren.

There is no dispute that the two protesters, Mr. Jordan and Mr. Howard were laid off from their employer since January 1991 and have not been recalled since then. While a recall notice was apparently issued to Mr. Howard, the recall never became effective, that is, Mr. Howard never, in fact, returned to work.

The issuance of withdrawal cards is governed by Article XVIII, § 6 of the IBT Constitution. Article XVIII, § 6(a), ¶ 2 states:

When a member becomes unemployed in the jurisdiction of the Local Union, he shall be issued an honorable withdrawal card upon his request. If no request is made, an honorable withdrawal card must be issued six (6) months after the month in which the member first become unemployed, if he is still unemployed at that time.

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Under this provision of the IBT Constitution, the Local has an obligation to issue a withdrawal card to a laid-off member after six months if the member remains unemployed at that time and has been laid off for the entire period, regardless of the wishes of the member. Local 741 did not violate the *Rules* by following the provisions of the Constitution and issuing withdrawal cards to the individuals herein. Of course, if either Mr. Jordan or Mr. Howard--or any other member issued a withdrawal card --is recalled or obtains another position, whether in the jurisdiction of Local 741 or in the jurisdiction of any other Local Union, that member may deposit his withdrawal card, pay the dues for the month in which the card is deposited and return to good-standing status. (If the position obtained is in the jurisdiction of a Local other than Local 741, the member has a right to obtain a transfer card from Local 741 and transfer to the Local in whose jurisdiction the member is working). If that occurs with respect to Messrs. Jordan or Howard--or any other member previously issued a withdrawal card--prior to the close of business on Friday, November 29, 1991, the member will be eligible to vote in the 1991 IBT International Union officer election.

The protesters also allege that the "withdrawal card rule" has been disparately enforced by the Local in order to disqualify potential Ron Carey Slate voters. The investigation does not support this conclusion. The issuance of withdrawal cards is a ministerial function within Local 741, handled by Heather Wiecker, the Local 741 employee responsible for membership dues and the operation of the IBT TITAN system. She was trained in her duties by the International Union and issues withdrawal cards in accordance with the instructions she received as part of that training. Such instructions included a directive to issue a withdrawal card to any member who has been unemployed and remains unemployed after a six-month period.

There is no evidence that any officer of Local 741 has interfered with Ms. Wiecker's performance of her duties with respect to the issuance of withdrawal cards. There is no evidence that any officer of Local 741 instructed Ms. Wiecker to issue withdrawal cards to Messrs. Jordan or Howard or any other member or instructed her not to issue withdrawal cards to any member who was not working and remained unemployed after six months.

An examination of the TITAN records for Local 741 demonstrates that Ms. Wiecker has consistently issued withdrawal cards to members who are unemployed and remain unemployed for over six months. Other Local 741 members besides Messrs. Howard and Jordan were issued withdrawal cards by Ms. Wiecker at the same time Ms. Wiecker issued Messrs. Howard and Jordan their withdrawal cards. Withdrawal cards have been similarly issued by Ms. Wiecker in prior years when no election was pending. There is no evidence that the determination to issue withdrawal cards was based on the political activity or partisan political positions of the protesters.


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Mr. Howard contends, however, that he was not issued a withdrawal card previously despite being off work for a year in 1985-86 as a result of his participation in a strike against his employer. Unemployment due to a strike is fundamentally different than unemployment resulting from a layoff or discharge. When one is on strike, one is not unemployed within the meaning of Article XVIII, § 6 of the IBT Constitution.¹ Consistent with the interpretation afforded Article XVIII, § 6 of the IBT Constitution, by the IBT, the Election Officer does not interpret that provision of the IBT International Union Constitution to require that withdrawal cards be issued to members not working because of a labor dispute at the members' place of employment, regardless of the length of the labor dispute.

For all of the above reasons, 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/ca

cc: Frederick B. Lacey, Independent Administrator
Christine M. Mrak, Regional Coordinator

¹ In most states, for instance, a striker is not entitled to unemployment benefits; a member unemployed due to layoff is so entitled.