



OFFICE OF THE ELECTION OFFICER
% INTERNATIONAL BROTHERHOOD OF TEAMSTERS
25 Louisiana Avenue, NW
Washington, DC 20001

Michael H. Holland
Election Officer

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November 25, 1991

VIA UPS OVERNIGHT

Andrew J. Puglise, Jr.
266 High Street
Cumberland, RI 02864

Paul G. Hanoian
Secretary-Treasurer
IBT Local Union 64
76 Dorrance Street, Suite 500
Providence, RI 02903

Re: Election Office Case No. P-1074-LU64-ENG

Gentlemen:

A protest was filed with the Election Office pursuant to Article XI of the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("*Rules*"). In his protest, Andrew J. Puglise, Jr. alleges that his rights under the *Rules* were violated as a result of the filing of internal union disciplinary charges against him, and his removal from his position as an Local Union Trustee after having been found guilty of such charges, since the charges were based on his engaging in activity protected by the *Rules*. The Election Officer's investigation revealed the following.

Mr. Puglise is a member of Local Union 64 who holds the elected office of Trustee of the Local Union. But for holding Local Union office, Mr. Puglise is currently not employed in the craft, having been laid off from his position with Tourtellot and Company on December 14, 1991.¹ Mr. Puglise was an unsuccessful candidate for delegate to the 1991 IBT International Convention losing to Paul G. Hanoian, the Secretary-Treasurer of the Local Union. In addition to campaigning on his own behalf, Mr. Puglise has actively campaigned on behalf of Ron Carey and his slate

¹ Under Article II, § 4(e) of the IBT Constitution, all Local Union officers are considered to have met the working within the craft requirement for retaining membership in good standing with the Local Union. While this section of the IBT Constitution was amended at the 1991 IBT International Union Convention -- an amendment to which the Government did not object -- to preclude officers who are not full-time employees of the Local and not otherwise employed at the craft from satisfying the requirements for maintaining good standing membership status for longer than the term of office being served at the time full-time employment at the craft was terminated, Mr. Puglise's lay-off occurred during his present term of office.

Andrew J. Puglise, Jr.
November 23, 1991
Page 2

of candidates for International office.

On January 12, 1991, Puglise filed a protest with the Election Office, Election Office Case No. P-278-LU64-ENG, alleging that he was laid off from his position with Tourtellot because of his candidacy for delegate to the IBT International Convention. On January 28, 1991 the Election Officer denied Puglise's protest finding that he was laid off for lack of work and because he did not possess the appropriate class of driver's license to permit him to perform the work available with his employer.

By letter dated July 1, 1991, Local Union Secretary-Treasurer Hanoian issued Puglise an involuntary withdrawal card pursuant to Article XVIII, § 6(a) of the IBT Constitution, because Puglise had not been employed in the craft for a period of over six months.² Puglise filed an appeal of the issuance of the withdrawal card and his removal from office to Joint Council 10 arguing that he satisfied the working in the craft requirement of the IBT Constitution as a result of his holding Local Union office, i.e. Trustee of the Local Union. Mr. Puglise's appeal to the Joint council was scheduled to be heard on October 8, 1991.

By letter dated October 5, 1991, Hanoian informed Puglise that upon review of his request for reinstatement and after consultation with the International Union General Counsel's office, the Local Union was "reinstating you to the Executive Board of Teamsters Local Union 64." However, Hanoian concluded the letter with the following statement:

You are advised that the charges filed against you in letter dated October 3, 1991 will still be heard on October 20, 1991 in the offices at Local Union 64. Your attendance as indicated is required.

By letter dated October 3, 1991, Hanoian charged Puglise with three violations of the By-Laws of Local Union 64 and two violations of the International constitution.³ While the letter contains numerous references to sections of the By-Laws and the International Constitution it does not contain any factual allegations to support the charges. The only indication of the basis for the charges are the following statements:

The violation of Section XXX deal with you bringing reproach upon your Union by your actions at the Nissen Bakery Company and the fact that you

² Hanoian also removed Puglise from his position as Trustee and member of the Local Union Executive Board.

³ According to a statement made at the hearing on the charges, Hanoian's charges against Puglise were the first charges ever brought by the Secretary-Treasurer against a member of the Local Union 64 executive Board.

Andrew J. Puglise, Jr.
November 21, 1991
Page 3

continually are attempting to harm a brother member and also making public the confidential and private information of the Local Union without authorization.

These charges stem from unsubstantiated accusations you have made, statement you have given to a newspaper that were false and other false statements made by you.

Attached to the charges were copies of the protest filed by Puglise with the Election Office in Election Office Case No. P-278-LU64-ENG, the Election Officer's January 28, 1991 determination in that case and a copy of an article by Steven Stycos, published in "The Phoenix's New Paper", entitled "UNION STINK, Highly paid Teamsters official under attack by reformers."⁴

On October 20, 1991 a hearing was held before the Executive Board of Local Union 64 on the charges against Puglise.⁵ The evidence presented to the Executive Board in support of the charges consisted of statements allegedly made by Puglise which were critical of Hanoian. All of these statements occurred in the context of Puglise's campaign against Hanoian for delegate to the International Convention and in Puglise's campaign on behalf of Ron Carey and members of his slate.⁶ In addition to the Puglise's campaign statements the Executive Board considered his filing of a protest with the Election Office and his alleged statements to Steven Stycos, the reporter for the New Paper, which were reprinted in an article critical of Hanoian. Puglise distributed copies of the article while campaigning in the delegate and International Union officer elections.

By letter dated November 7, 1991, the Executive Board found Puglise guilty of the charges.

The *Rules* protect the right of IBT members to freely campaign for the election of delegates to the IBT International Convention and for International officers in the IBT. The Election Officer and the Independent Administrator have consistently

⁴ During the hearing on the charges it was alleged that, included with the charges, was a copy of a statement from David Dionne, a Local Union 64 member. Puglise denied receiving a copy of Mr. Dionne's statement prior to the hearing.

⁵ As a preliminary matter the Executive Board dismissed the charge against Puglise alleging that he brought reproach upon the IBT as a result of his termination from Nissen Baking Company because that termination occurred more than a year prior to the bringing of charges.

⁶ Hanoian is reported to have told a reporter for the New Paper prior to the Convention that he was "leaning toward supporting Shea."

Andrew J. Puglise, Jr.
November 22, 1991
Page 4

recognized that campaign rhetoric may include statements that are exaggerations, mischaracterizations or are simply untrue. Such campaign statements are not beyond the protection of the *Rules*. See, e.g., In Re: Ron Carey and R.L. Communications, Election Office Case No. P-284-IBT, aff'd in pertinent part, 91-Elec. App.-194 (SA). This interpretation of the *Rules* reflects the well recognized right of union members to engage in vigorous internal union debate free from the threat of internal union discipline for their campaign statements. See, eg, Petramale v. Laborers Local 17, 736 F. 2d 13 (2nd Cir. 1984); Semancik v. UMW District 5, 80 LRRM 3475 (3rd Cir. 1972); Salzhandler v. Caputo, 316 F 2d 445 (2nd Cir. 1963). Similarly, the United States Supreme Court has recognized labor disputes ". . . are frequently characterized by bitter and extreme charges, countercharges, unfounded rumors, vituperations, personal accusations, misrepresentations and distortions. Old Dominion Branch No. 496 v. Austin, 418 U.S. 264, 272 (1974).

Similarly, the right of IBT members to file election protests, even protests which are found to be non-meritorious, go to the heart of the safe guards mandated by the *Rules* and the Consent Order. It is violative of the *Rules* to discipline or discriminate against an IBT member for filing a protest with the Election Office. See, e.g., In Re: Shrader and ABE, Election Office Case No. P-561-LU171-MID, aff'd 91-Elec. App.-124 (SA). See also In Re: Petre and DiDio, Election Office Case No. P-1036-LU810-NYC, appeal pending.

Based upon the Election Officer's review of the charges, the proceedings before the Local Union Executive Board and the decision of the Executive Board, it is clear that Mr. Puglise was removed from his position as Trustee of the Local Union for conduct protected by the *Rules*. The gravamen of Hanoian's charges and the basis of the Executive Board's decision are campaign statements made by Puglise and Puglise's filing of a protest with the Election Officer. Moreover, the charges against Puglise appear not only to be motivated by a hostility to his political views but also a renewed attempt to remove him from office so as to render him ineligible to participate in the 1991 IBT International Union officer election.

Having found a violation of the *Rules*, the Election Officer orders the following relief.

The decision of the Executive Board removing Mr. Puglise from his position as Trustee of the Local Union is hereby rendered null and void. The Local Union is hereby directed to immediately reinstate Mr. Puglise, within two business days of the date of this decision to his position as Trustee and make him whole, within five days of the date of this decision, for any lost compensation due him as a result of his being removed from that office. Local Union Secretary-Treasurer Paul G. Hanoian is hereby ordered to cease and desist from any further retaliation against or interference with Andrew Puglise's or any other IBT member's exercise of rights guaranteed by the *Rules*.

Andrew J. Puglise, Jr.
November 28, 1991
Page 5

Mr. Hanoian is further ordered to sign the attached Notice to Local Union 64 Members and duplicate the signed notice, at his personal expense, in sufficient numbers to permit posting on all Local Union bulletin boards at each work place where members of Local Union 64 are employed. Within five (5) days of the date of this decision, Mr. Hanoian shall cause these notices to be posted on such bulletin boards and to ensure that they remain posted for 30 days. Mr. Hanoian shall submit an affidavit to the Election Officer within seven days of the date of this decision, describing in detail his compliance with the reinstatement, back pay and posting requirements of this decision.

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

cc: Frederick B. Lacey, Independent Administrator
Elizabeth A. Rodgers, Regional Coordinator

**NOTICE TO ALL MEMBERS OF
IBT LOCAL UNION 64
FROM
PAUL G. HANOIAN
SECRETARY-TREASURER**

All IBT members have the right to participate in campaign activities on behalf of candidates for International office in the IBT. All IBT members have the right to openly support or oppose any candidate or slate of candidates and to aid or campaign for any candidate or slate of candidates seeking International Union office. It is a violation of the *Rules* for any Union officer or member to retaliate against any other IBT member because he or she has engaged in such campaign activities.

All IBT members have a right to file protests with the Election Officer alleging violations of the rights set forth above or violations of any other provisions of the *Rules for the IBT International Union Delegate and Officer Election*. It is a violation of the *Rules* for any Union officer or member to retaliate against an IBT member because of his utilization of the protest processes of the *Rules*.

I will not retaliate or discriminate against Andrew J. Puglise or any other member of Local Union 64 for engaging in campaign activities or for filing a protest with the Election Officer. Nor will I bring internal Union charges against Mr. Puglise or any other member of Local Union 64 for engaging in such conduct.

Andrew J. Puglise has been reinstated to his position as Trustee of Local Union 64.

PAUL G. HANOIAN

This is an official notice and must remain posted for 30 days and must not be altered, defaced, or covered with any other material.

IN RE:

ANDREW J. PUGLISE

and

PAUL G. HANOIAN

and

IBT LOCAL UNION NO. 64

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: 91 - Elec. App. - 242 (SA)
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: DECISION OF THE
: INDEPENDENT ADMINISTRATOR
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This matter arises as an appeal from the Election Officer's decision in Case No. P-1074-LU64-ENG. A hearing was held before me by way of teleconference at which the following persons were heard: John J. Sullivan for the Election Officer; Joe Padeloere, for Paul Hanoian; Andrew J. Puglise, the Complainant; and Amy R. Tabor for Mr. Puglise. In addition, Marc B. Gursky appeared before me in person representing Mr. Hanoian and Local Union 64. As usual the Election Officer submitted a written summary in accordance with Article XI, Section 1.a.(7) of the Rules For the IBT International Union Delegate and Officer Election ("Election Rules"). Both Mr. Gursky and Ms. Tabor submitted various exhibits in support of their respective positions.

In this case Mr. Puglise, a member and elected trustee of IBT Local Union 64, charges that the Local's Secretary-Treasurer and principal officer, Paul Hanoian, and the Local's Executive Board improperly removed him from his position as Trustee in retaliation

for his participation in the IBT International Union delegate and officer elections. Local Union 64 and Mr. Hanoian assert that the action it took against Mr. Puglise is strictly an internal Local Union matter and that it is consistent with the Local Union's by-laws and the IBT Constitution.

Upon investigation, the Election Officer found that the Union's imposition of discipline was, at least in part, motivated by a hostility towards Mr. Puglise's activity in International Union politics. Thus, the imposition of discipline violated Article VIII, Section 10. of the Election Rules which guarantees the rights of IBT members to participate in campaign activities. Accordingly, the Election Officer ordered Local Union 64 to reinstate Mr. Puglise to his Trustee position, to cease and desist from further retaliation, and to post a notice affirming Mr. Puglise's rights under the Election Rules on all Local Union bulletin boards.

At the hearing before me, Local 64 and Mr. Hanoian objected to the Election Officer's failure to separate the effects of Local Union politics from those of International Union politics. Such a separation, it was argued, would demonstrate that this was strictly a Local Union matter and thus, not within the Election Officer's grant of jurisdiction. However, a full review of the history of the rivalry between Mr. Puglise and Mr. Hanoian demonstrates that the animus between the men originated in and

focuses on the International Union elections and that the intra-Union reasons for imposing discipline are pretextual.

On or about December 8, 1990, Mr. Puglise was nominated as a candidate for delegate, on behalf of Local Union 64, to the IBT International Convention. Also running for a delegate position was Mr. Hanoian. Six days later, on December 14, 1990, Mr. Puglise was laid off from his job with his employer, Tourtellot and Co. Inc. ("Tourtellot"). Suspicious of the timing of the lay-off, and apparently believing that it had damaged his candidacy, Mr. Puglise filed a protest with the Election Officer alleging that the lay-off was motivated by his participation in the delegate race. On January 28, 1991, the Election Officer denied Mr. Puglise's protest, finding that the lay-off was based on legitimate business reasons and that there was no evidence that the Local Union was involved in the decision.¹ See Decision of the Election Officer, Election Office Case No. P-278-LU67-ENG (January 28, 1991).

The delegate election and this unsuccessful protest marked a turning point in the relationship between Mr. Puglise and Mr. Hanoian. Prior to the delegate elections, Mr. Puglise and Mr. Hanoian enjoyed an amicable and fraternal relationship. For

¹ Mr. Puglise's January protest letter to the Election Officer did not state that Mr. Hanoian or Local Union 64 had caused his lay-off. It alleged that the lay-off was due to his IBT delegate election activity. The Election Officer's decision of January 28, 1991, focuses on the employer's motives and mentions the Local Union only once - to state that it had nothing to do with the lay-off. Mr. Hanoian is not mentioned in either Mr. Puglise's protest letter or the Election Officer's decision letter.

example, in early 1990, Mr. Puglise worked for Nissen Bakery Company ("Nissen"). Nissen attempted to fire Mr. Puglise for theft but was dissuaded from doing so by Mr. Hanoian. While unable to save Mr. Puglise's job, Mr. Hanoian negotiated an arrangement which enabled Mr. Puglise to resign and take with him a letter of recommendation from Nissen to assist him in obtaining other employment. Subsequent to leaving Nissen Bakery, Mr. Hanoian used his influence to aid Mr. Puglise in securing his job with Tourtellot.

That the delegate election and, in particular, the Election Rules protest filed by Mr. Puglise were watershed events that marked the origin of animus and hostility between the two men is confirmed elsewhere in the record.

At a Union disciplinary hearing held on October 20, 1991,² Mr. Hanoian was asked when the animosity between Mr. Puglise and him began. Mr. Hanoian replied that it began, "when the delegate (sic) for the International Convention nominations took place." Tr. 94. In response to another question, Mr. Hanoian noted that, prior to the delegate elections Mr. Puglise and he were "on good ground together." Ibid.

² The Union disciplinary hearing was conducted to consider charges filed by Mr. Hanoian against Mr. Pugliese on October 3, 1991. These charges are discussed in greater detail at pp. 6-10, infra.

Mr. Hanoian also admitted that Mr. Puglise's Election Rules protest concerning his lay-off was a special source of bitterness for him. As Mr. Hanoian stated at the disciplinary hearing:

Just to clarify that situation, he was the most junior man among the four or five people that worked there who was laid off, yet he files a complaint with the [E]lection [O]fficer simply because he run for office for delegate to the Convention, that I would arrange it so he would lose his job. What a malicious lie, absolute lie. That's the thanks I get for the good I did for him. [Tr. 84]

Mr. Hanoian was not alone in his concern over Mr. Puglise's Election Rules protest. At the Union disciplinary hearing, another member of the Local Union Executive Board stated that, had Mr. Puglise's Election Rules protest succeeded, Mr. Hanoian "would not be Secretary-Treasurer of Teamster Local 64 today." Tr. 76

Mr. Puglise eventually lost the delegate election by a two to one margin.

Shortly after the IBT International Convention, on July 1, 1991, Mr. Hanoian issued Mr. Puglise an involuntary withdrawal card allegedly pursuant to Article XVIII, Section 6(a) of the IBT Constitution, thereby removing Mr. Puglise from the IBT for not having been employed in the jurisdiction of the Local for a period of six months. At the same time, Mr. Hanoian also removed Mr. Puglise from his position as Local Union Trustee. Mr. Puglise appealed Mr. Hanoian's action to IBT Joint Council 10 arguing that the removal violated the IBT Constitution. See, e.g., IBT Constitution Article II, Section 4(e).

In the meantime, during the week of July 18-24, 1991, an article critical of Mr. Hanoian appeared in a Rhode Island weekly newspaper, The Phoenix's NewPaper (the "NewPaper"). In a front page article entitled "Union Stink, Highly Paid Teamster Official Under Attack By Reformers," NewPaper reporter Steven Stycos detailed criticisms made by Local Union 64 rank-and-file members of Mr. Hanoian's performance in recent years as well as the size of his salary and benefits. Mr. Puglise is one of the individuals quoted in the article and he is described as "a vocal supporter of reformer Ron Carey's campaign for national Teamster president" A picture of Mr. Puglise is featured in the article which also reports that Mr. Puglise intends to run against Mr. Hanoian in the next Local Elections to be held in December 1992. Mr. Stycos approached Mr. Puglise and interviewed him at a campaign meeting where Ron Carey was speaking. As the Election Officer noted, Mr. Puglise subsequently distributed copies of the article while campaigning on behalf of himself and Mr. Carey.

On October 3, 1991, Mr. Hanoian charged Mr. Puglise with violating Local Union 64's by-laws and the International Constitution. The letter charging Mr. Puglise does not set forth any specific facts which constitute the offense except for the following statement:

The violation of Section XXX [of the by-laws] deals with you bringing reproach upon your Union by your actions at the Nissen Baking Company and the fact that you continually are attempting to harm a brother-member and also making public the confidential and private

information of the Local Union without authorization.

These charges stem from unsubstantiated accusations you have made, statements you have given to a newspapers that were false and other false statements made by you.

A copy of the Election Rules protest that Mr. Puglise had filed in January and a copy of the NewPaper article were attached to the charges.

When the charges were filed, Mr. Puglise was neither a member nor an officer of Local Union 64, having been previously removed on July 1 for having been unemployed more than six months. However, on October 5, two days after the charges were filed, Mr. Hanoian reinstated Mr. Puglise to his position as trustee after purportedly reviewing Mr. Puglise's appeal to the Joint Council and consulting with the IBT's General Counsel. Mr. Puglise was also given his back Trustee's pay for July, August and September. Local 64 subsequently conducted a disciplinary hearing on the Hanoian charge on October 20, 1991. A decision then issued on November 7, 1991, removing Mr. Puglise as a Local 64 Trustee.

At the hearing before me, Mr. Hanoian and Local 64, argued that the disciplinary charges were related primarily to the NewPaper article and Local Union politics. In support of their positions, Mr. Hanoian and Local Union 64 offered the fact that the charges were filed before the decision to issue Mr. Puglise an involuntary withdrawal card was reversed. This, it was suggested, is evidence that the charges were genuine and that they were not

a pretext to oust Mr. Puglise. Not only is this argument without merit, but the chronology of events here compels the opposite conclusion.

The IBT Constitution is clear that an officer of a Local Union "shall be considered as meeting the requirement of working at the craft within the jurisdiction for the purpose of retaining active membership." IBT Constitution, Article II, Section 4(e). Thus, it must have been obvious to Mr. Hanoian and the Local that any attempt to issue Mr. Puglise an involuntary withdrawal card would fail as soon as Mr. Puglise filed his appeal with the Joint Council. The fact that the Hanoian charges were filed just days before the withdrawal card was revoked reflects nothing more than an understanding on Mr. Hanoian's part that the involuntary withdrawal card was void at the time he filed his charges against Mr. Puglise. Any other understanding would mean that he knowingly filed charges against a non-member.

The conclusion that animosity arising from Mr. Puglise's participation in the Court supervised election process was the motivating factor behind the filing of the charges and Mr. Puglise's ultimate ouster is further supported by examining the record of the Local Union disciplinary hearing itself.

Through his own witnesses, Mr. Hanoian established that Mr. Puglise had made disparaging comments about Mr. Hanoian in the context of the delegate race and the International Officer elections. See Tr. 29 ("He came in and said he was supporting Ron

Carey . . ."); Tr. 35 ("[H]e began to strike up a conversation because he was running at the time for a delegate to go to the convention and at this time he had stated some, made some statements concerning Mr. Hanoian."); Tr. 63 ("[A]ll he did was hand me some literature on Mr. Ron Carey.")

Beyond these general statements, all of which implicate the delegate elections and the International Union Officer elections, Mr. Hanoian was unable to articulate any specific acts implicating intra-Union politics. Both prior to, and during the course of the hearing, Mr. Puglise persistently asked for a statement of the facts that constituted the basis for the charges against him. See, e.g., Tr. 9-10. The response to Mr. Puglise's requests was that he "knows best what he's done." See, e.g., Tr. 12. As Mr. Hanoian stated:

He committed these particular infractions or violations himself. There's no need for us to explain and describe to him in meticulous detail as to what it is all about. He is the culprit that made those statements and he wants us to give it to him in detail so he will know how to defend himself, he will know how to respond. What a mockery that is. He committs all the wrongs, then he wants us to clean up his dirt.
[Tr. 86]

At the disciplinary hearing Mr. Hanoian also introduced testimony concerning Mr. Puglise's resignation from Nissen Bakery and the allegations of theft surrounding that resignation. See Tr. 66-74. The introduction of such testimony is suspect, given that Mr. Hanoian had intervned at the time of the Nissen bakery

incident, had opposed the theft allegation, and had successfully prevented Mr. Puglise's discharge on that basis.

In sum, it is evident that Mr. Hanoian's and Local 64's motives in removing Mr. Puglise from the Union were first and foremost a response to his participation in the Court-supervised Election process. Absent the IBT delegate race, absent the protest filed by Mr. Puglise, and absent the statements made in connection with his support for Carey, Mr. Hanoian would never have filed charges, Local 64 would never have upheld those charges and Mr. Puglise never would have been removed from the Union.

For the foregoing reasons, the Election Officer's decision is affirmed in all respects.

Frederick B. Lacey
Independent Administrator
By: Stuart Alderoty, Designee

Dated: January 23, 1992

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA, :
 :
 Plaintiff, :

-v- : :

ORDER

INTERNATIONAL BROTHERHOOD OF :
 TEAMSTERS, CHAUFFEURS, :
 WAREHOUSEMEN AND HELPERS OF :
 AMERICA, AFL-CIO, et al., :
 :
 Defendants. :

88 CIV. 4486 (DNE)

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IN RE: PETITION FOR REVIEW OF :
 DECISION 91-ELEC. APP.-242 OF :
 THE INDEPENDENT ADMINISTRATOR :

-----X

EDELSTEIN, District Judge:

WHEREAS petitioners appeal the Independent Administrator's January 23, 1992 decision in Election Appeal 91-Elec. App.-242 (SA), which affirmed the Election Officer's November 25, 1991 decision; and

WHEREAS the Independent Administrator found that petitioners improperly removed Andrew J. Puglise from his position of Trustee of Local 64 in retaliation for his participation in the IBT International Delegate and Officer Elections and his support for Ron Carey's candidacy for Teamster General President; and

WHEREAS the Independent Administrator therefore affirmed the Election Officer's decision, which inter alia: (1) nullified the decision of the Local 64 Executive Board removing Puglise from his position; (2) directed Local 64 to reinstate Puglise and to pay him all lost compensation; (3) directed Paul G. Hanoian, the Secretary Treasurer of Local 64, to cease and desist from retaliating against or interfering with Puglise's or other IBT member's rights guaranteed by the Election Rules; and (4) directed Hanoian to sign and post a notice concerning the incident; and

WHEREAS the Independent Administrator's September 18, 1991 decision is in accordance with the purpose of the Election Rules to "guarantee honest, fair, and free elections completely secure from harassment, intimidation, coercion, hooliganism, threats, or any variant of these no matter under what guise." United States v. IBT, 742 F. Supp. 94, 97 (S.D.N.Y. 1990), aff'd, Nos. 90-6216, 6228, 6234, 6244, 6246, 6248, 6252, 6254, slip. op. at 3601 (2d

Cir. April 12, 1991); and

WHEREAS this Court and the Court of Appeals have ruled that determinations of the Independent Administrator "are entitled to great deference." United States v. Int'l Brotherhood of Teamsters, 905 F.2d 610, 616 (2d Cir., 1990), aff'd March 13, 1990 Opinion & Order, 743 F. Supp. 155 (S.D.N.Y., 1990); and

WHEREAS this Court will overturn findings of the Independent Administrator when it finds that they are, on the basis of all the evidence, "arbitrary and capricious." United States v. Int'l Brotherhood of Teamsters, 905 F.2d at 622; October 9, 1991 Memorandum & Order, slip opinion, at 5 (S.D.N.Y. 1991); August 14, 1991 Memorandum & Order, slip opinion, at 4 (S.D.N.Y. 1991); July 31, 1991 Memorandum & Order, slip opinion, at 3-4 (S.D.N.Y. 1991); July 18, 1991 Memorandum & Order, slip opinion, at 3-4 (S.D.N.Y. 1991); July 16, 1991 Opinion & Order, slip opinion, at 3-4 (S.D.N.Y. 1991); June 6, 1991 Opinion & Order, slip opinion, at 4-5 (S.D.N.Y. 1991); May 13, 1991 Memorandum & Order, 764 F. Supp. 817, 820-21 (S.D.N.Y. 1991); May 9, 1991 Memorandum & Order, 764 F. Supp. 797, 800 (S.D.N.Y. 1991); May 6, 1991 Opinion & Order, 764 F. Supp. 787, 789 (S.D.N.Y. 1991); December 27, 1990 Opinion & Order, 754 F. Supp. 333, 337 (S.D.N.Y. 1990); September 18, 1990 Opinion & Order, 745 F. Supp. 189, 191-92 (S.D.N.Y. 1990); August 27, 1990 Opinion & Order, 745 F. Supp. 908, 911 (S.D.N.Y. 1990); March 13, 1990 Opinion & Order, 743 F. Supp. at 159-60, aff'd, 905 F.2d at 622; January 17, 1990 Opinion & Order, 728 F. Supp. 1032, 1045-57 (S.D.N.Y. 1990), aff'd, 907 F.2d 227 (2d Cir. 1990); November 2, 1989 Memorandum & Order, 725 F.2d 162, 169 (S.D.N.Y. 1989); and

WHEREAS upon review, the determination of the Independent Administrator is fully supported by the evidence;

WHEREAS the petitioners' objections to the Independent Administrator's decision in Election Appeal 91-Elec. App.-242 (SA) are wholly without merit; and

WHEREAS the petitioners have moved for a stay of the Independent Administrator's decision; and

WHEREAS the petitioners have failed to show that they are likely to succeed on the merits, or that they will suffer irreparable injury absent a stay, see Hilton v. Braunskill, 481 U.S. 770, 776 (1987);

IT IS HEREBY ORDERED that petitioners' application for a stay of the Independent Administrator's decision is denied; and

IT IS FURTHER ORDERED that the Independent Administrator's January 23, 1992 decision in Election Appeal 91-Elec. App.-242 (SA) is affirmed in all respects.

SO ORDERED.

Dated: New York, New York

U.S.D.J.