

OFFICE OF THE ELECTION OFFICER
% INTERNATIONAL BROTHERHOOD OF TEAMSTERS
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Michael H. Holland
Election Officer

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February 6, 1992

VIA UPS OVERNIGHT

Billy D. Mendenall
Secretary-Treasurer
IBT Local Union 580
1202 South Washington
Lansing, Michigan 48910

Alex Kubilis
1939 Wilder
Haslett, MI 48840

Re: Election Office Case No. P-1139-LU580-MGN

Gentlemen:

A protest was filed pursuant to the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("*Rules*") by Billy D. Mendenall, Secretary Treasurer of IBT Local Union 580. Mr. Mendenall contends that the membership list provided an accredited candidate for International Union office by the Election Officer pursuant to Article VIII, § 2(a) of the *Rules* was used to mail campaign materials concerning Local Union 580's Local Union officer election. Since the return address on one of the mailings was that of Alex Kubilis, Mr. Mendenall suggests that Mr. Kubilis was the member utilizing the membership list. He alleges that the list was wrongfully provided to Mr. Kubilis by the accredited candidate who received it from the Election Officer. The protest was investigated by Regional Coordinator James DeHaan and the staff of the Washington, D.C. office of the Election Officer.

Pursuant to a settlement agreement entered into by and between Local Union 580 and the United States Department of Labor, the Local Union officer election in Local Union 580 is being rerun under the supervision of the Department of Labor. Campaign material critical of Mr. Mendenall, a candidate for re-election as Local 580 Secretary-Treasurer, his fellow candidates and supporters, has been mailed to some Local Union members by the "Committee to Dump Billie [sic]." Four or five different pieces of literature have been distributed. At least one envelop with respect to one such distribution contained as the return address of the "Committee to Dump Billie," the address of Alex Kubilis, a Local 580 member politically opposed to Mr. Mendenall. Mr. Mendenall also obtained from the spouse of a Local Union 580 secretary--a former business agent from a different IBT Local Union and otherwise unconnected with Local Union 580 and its election--a copy of a membership list prepared by the Election Officer for an accredited candidate for International Union office. The foregoing presents the basis for Mr. Mendenall's contention that the membership list prepared by the Election

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Officer is being utilized with respect to the Local Union officer election in Local Union 580 and is being so utilized by Mr. Kubilis.

The Election Officer investigation has determined that none of the campaign material has been mailed by Mr. Kubilis. Mr. Kubilis is and has been politically active within Local Union 580 and is a member of Teamsters for a Democratic Union and is opposed to Mr. Mendenall's election as Local Union Secretary-Treasurer. The only evidence, however, linking him to the literature distribution is the fact that one envelop containing one piece of literature also contained his home address as the return address. The envelope as a whole--including Mr. Kubilis' address--was typewritten. However, Mr. Kubilis' address is not unknown to other members of Local 580.

Mr. Kubilis denies distributing any of the material prepared by the "Committee to Dump Billie" and did so prior to the time that any protest was filed with the Election Officer. Apparently one piece of literature containing as the return address, the name "Committee to Dump Billie" and Mr. Kubilis' home address, was mailed to a reporter of a newspaper of general circulation in Michigan. When the reporter contacted Mr. Kubilis to obtain additional information, Mr. Kubilis told the reporter that he had no idea of that about which the reporter was inquiring. The Election Officer finds it highly unlikely that if Mr. Kubilis were the author and distributor of the literature--and sent a copy to a newspaper reporter--that he would deny knowledge of the mailing when the reporter called for additional information. The purpose of mailing information to a reporter is to elicit further contact and, hopefully, publicity. After obtaining the desired response, one would not deny knowledge of the document.

Further, the Election Officer has been unable to determine that a membership list that he prepared for an accredited International Union officer candidate was the list utilized to obtain the names and addresses of Local 580 members to whom the Local Union officer election material in question was distributed. The person producing the list--the former business agent for a Local Union other than Local 580--denies utilizing the list for any purpose whatsoever. His only link to Local 580 is the fact that his wife is a secretary for Local 580. He is not involved in the Local Union officer election; there is no evidence that his wife has taken or is taking a partisan position in Local 580's Local Union officer election.

The only evidence suggesting that the membership list prepared by the Election Officer for an accredited International Union officer candidate was utilized to accomplish the literature distribution within Local 580 is the fact that the envelopes containing the literature of the "Committee to Dump Billie" did not contain the addressees' full first names, but only the initial of their first names; the membership list prepared by the Election Officer also did not contain full first names, but only initials.

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The membership list prepared by the Election Officer also contained names of individuals not members of the IBT to permit the Election Officer to monitor the use of the membership lists he distributed. No such individual on the membership list prepared by the Election Officer for Local 580 received any of the material here at issue.

Further, the Election Officer's investigation revealed that the literature was not distributed to all members of Local 580. All members of Local 580--plus others as described above--were listed on the membership list prepared by the Election Officer. However, very few members of Local 580 received any mailing from the "Committee to Dump Billie." It appears that a somewhat larger percentage of Local Union officers, business agents and stewards received some material from the "Committee to Dump Billie," yet the membership list prepared by the Election Officer for accredited candidates--the membership list allegedly used here--does not denote officers or stewards in any way.

Finally, the membership list prepared by the Election Officer contains both the first name initial and the middle name initial, where applicable, for members of Local 580. Some of the material mailed by the "Committee to Dump Billie" failed to contain the member's middle initial despite the fact that the middle initial was contained on the membership list prepared by the Election Officer. The evidence does not support the conclusion that the membership list prepared by the Election Officer and supplied by him to an accredited candidate for International Union office was utilized for the mailing of campaign literature in connection with the Local Union officer election in Local Union 580.

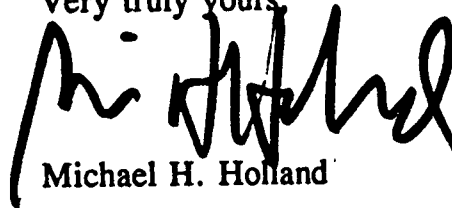
Finally, there is no evidence linking the membership list prepared by the Election Officer with Mr. Kubilis. Mr. Kubilis does not now have a membership list of the members of Local 580. The list obtained was obtained from someone who has no connection with Mr. Kubilis. Assuming, contrary to the Election Officer's finding, that the membership list prepared by him was utilized to distribute literature in connection with Local 580's Local Union officer election, the distribution was not done by Mr. Kubilis. Assuming on the other hand, again contrary to the Election Officer's findings, that the distribution of the literature was undertaken by Mr. Kubilis, the membership list prepared by the Election Officer could not have been the source for obtaining the names or addresses of the Local's members. In accordance with the foregoing, 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

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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,

A handwritten signature in black ink, appearing to read "Michael H. Holland". The signature is written in a cursive, somewhat stylized script.

Michael H. Holland

MHH/mjv

cc: Frederick B. Lacey, Independent Administrator
James De Haan, Regional Coordinator