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Election Officer

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January 9, 1991

VIA UPS OVERNIGHT

Bradley N. Yeakel
620 North Jefferson St.
Allentown, PA 18102

Stephen A. Banus
Secretary-Treasurer
IBT Local Union 773
1345 Hamilton Street
Allentown, PA 18102

N. Chuck Bernhard
Business Agent
IBT Local Union 773
1345 Hamilton Street
Allentown, PA 18102

Re: Election Office Case No. P-138-LU773-PHL

Gentlemen:

A pre-election protest was timely filed pursuant to Article XI of the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("*Rules*"). In his protest, Mr. Bradley N. Yeakel contends that Mr. Chuck Bernhard, a Business Agent of Local 773 and an Employer, Exide Battery, violated the *Rules*, in that the Employer financed a meeting where Mr. Bernhard was permitted to engage in campaign activity.

The investigation shows the following On Saturday, December 15, 1990, Exide Corporation sponsored a meeting for its drivers at the Holiday Inn in Fogelsville, Pennsylvania. The purpose of the meeting was to introduce its program on the issue of drugs and controlled substances in the work place, and to inform drivers of D.O.T. Drug Testing Procedures. Attendance at the meeting was mandatory, and as part of the meeting breakfast was served. At each driver's seat there was a card from the "Action Team" Slate. The card listed the "Action Team" Delegates, and requested the driver to sign in support of the slate. The cards were distributed by Union Steward John Boyer prior to the meeting, and were collected by him during a break in the meeting.

Mr Bernhard, the business agent, addressed the meeting for approximately five minutes During that time, he discussed the fact that the Union supported Exide's attempts to remove drugs from the workplace. He also discussed the CDL exams. Toward the end of the remarks, Bernhard reminded the drivers in attendance that the

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Local was having an election for delegate and that there were three slates of candidates running for delegate Mr Bernhard then left the meeting at the conclusion of his remarks.

The witnesses who furnished evidence to the Election Officer are in agreement that Mr. Bernhard confined his remarks, which only announced the election, to around 30 seconds. There is absolutely no evidence that Mr. Bernhard used any of the time to speak in support of any slate or any candidate.

The circulation of the cards by the Union Steward appears to have occurred during break time. There is no allegation that other candidates or their supporters were prohibited from soliciting support during the break.

The *Rules* do prohibit employer financial contribution to any candidate for office. *Rules*, Article X. The *Rules* also prohibit campaigning in work areas on work time except that campaigning which is incidental to work *Rules*, Article VIII, § 10 (a)(b). There is no evidence, however, in this case that any campaigning occurred during working time at the meeting. Further, there is no evidence that Exide Battery created and financed a forum for campaigning by or for any candidate.

Therefore, the *Rules* have not been violated and 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/mca

cc: Frederick B. Lacey, Independent Coordinator
Peter V Marks, Sr., Regional Coordinator

FOR ELECTION OFFICE CASE NO. P-139-LU92-CLE

see: ELECTION OFFICE CASE NO. P-149-LU92-CLE