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Michael H Holland
Election Officer

January 7, 1991

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VIA UPS OVERNIGHT

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Tony Cannestro
Stan Lichtman
Joyce Hardy
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IBT Local Union 769
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Re Election Office Case No P-168-LU769-SEC

Gentlemen and Madam

A pre-election protest was 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, the complainant, Jack Barmon, alleges that the Local Union violated the *Rules* by using the union's newsletter "Teamsters' Pride 769" for campaign purposes in support of the candidacy of certain incumbent union officers and stewards for delegate and alternate delegate to the 1991 IBT International Convention The Election Officer's investigation revealed the following

Local Union 769 publishes and distributes to its membership a periodical newsletter entitled "Teamsters' Pride 769" The fall edition of the newsletter, which was distributed in December, 1990, contains, *inter alia*, a "Message for President Tony Cannestro", seasons greetings from the incumbent union officers and a two page article, with photographs, of the union's Labor Day picnic Also included in the newsletter was a "Special Notice" regarding the nomination and election of delegates and alternate delegates to the 1991 IBT International Convention

The "Message from President Tony Cannestro" portion of the newsletter begins with an expression of thanks to the membership for the support of the "Experienced Union Team" slate of incumbent union officers in the recent Local Union officer election Recently the incumbent officers of the Local Union have initiated use of the "Experienced Union Team" name for their slate of candidates for delegate and alternate delegate to the 1991 IBT International Convention Prominent in the article

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about the Labor Day picnic is a full page collage of photographs of participants. Prominent in the collage are individuals wearing a shirt with the inscription "Teamster Local 769 Vote for the Experienced Union Team".

Article VIII, § 7 of the **Rules** provides that "[n]o union financed publication or communication may be used to support or attack the candidacy of any person .." In the instant case, the fact that the principal officer of the Local Union, who is also a candidate for delegate, has a column in the Local Union newsletter is not violative of the **Rules**. It is not uncommon for the principal officers of a union to have a regular column in the union's periodical. While the content of such a column can be violative of the **Rules**, that fact that the officer has a column, in and of itself, does not violate the **Rules**.

Similarly, photographs of Local Union officers in the context of union social events is not uncommon or violative of the **Rules**. Moreover, the complainant has not alleged, and the Election Officer does not find, that the political opponents of the incumbents were excluded from the photographs of the union members attending the Labor Day picnic.

However, in the instant case the newsletter, taken as a whole, contains a clear campaign message on behalf of the Experienced Union Team Slate. The reference to the slate in the Local Union President's column could be read as a solicitation of future support in the delegate election, rather than simply an expression of thanks for past support and a call for unity. The photographs in the Labor Day picnic collage creates a virtual billboard reading "Teamsters Local 769 Vote for the Experienced Union Team". The message in the Fall edition of the newsletter is clear, i.e., "Vote for the Experienced Union Team". It is that use of the publication that is violative of the **Rules**, and it is a violation that must be remedied.

The Election Officer finds that the **Rules** have been violated and orders the following relief:

1 Local Union 769, the members of the Experienced Union Team, or anyone acting on their behalf, shall cease and desist from using union publications or communications to support their candidacy for delegate and alternate delegate to the 1991 IBT International Union Convention, and any similar violations of the **Rules**.

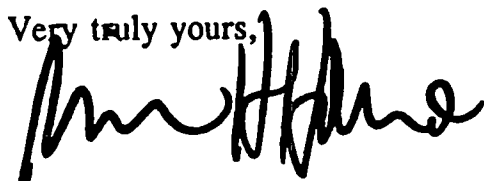
2 The Local Union shall distribute, at its own expense, in the same manner that the Fall, 1990 edition of the Teamsters' Pride 769 was distributed, i.e., by first class mail, a single page 8 5" by 11" piece of campaign literature provided by any other slate or independent candidates running for delegate or alternate delegate, to each member of Local Union 769.

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3 Such slates or independent candidates shall provide the Local Union with a camera ready copy of their literature, with a copy to the Election Officer, and the Local Union shall copy and caused to be mailed such literature within three working days of its receipt.

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
Election Officer

cc

Frederick B Lacey, Independent Administrator, IBT
Don Williams, Regional Coordinator