

OFFICE OF THE ELECTION OFFICER
% INTERNATIONAL BROTHERHOOD OF TEAMSTERS
25 Louisiana Avenue, NW
Washington, DC 20001
(202) 624 8778
1 800 828 6496
Fax (202) 624 8792

Michael H Holland
Election Officer

Chicago Office
% Cornfield and Feldman
343 South Dearborn Street
Chicago, IL 60604
(312) 922 2800

March 15, 1991

VIA UPS OVERNIGHT

Carmen J Pizzuto
11 Chelsea Dr.
Saddle Brook, NJ 07662

Val N Ortense
235 Grantwood Blvd
Palisades Park, NJ 07650

Kenneth J Dyson, Jr
264 Carmita Ave
Rutherford, NJ 07070

Anthony Grazioso
1117 Charter St
Piscataway, NJ 08854

Robert Marra
Secretary-Treasurer
IBT Local Union 560
707 Summit Ave.
Union City, NJ 07087

Charles Digregorio
100 Manhattan Ave.
Union City, NJ 07087

Daniel Sciarra
1 Munn Ave
Riverdale, NJ 07457

Re: Election Office Case No. P-169-LU560-NJE

Gentlemen

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 the protest, Carmen Pizzuto alleges that he was physically assaulted at the Local 560 delegate nominations meeting conducted on Sunday, December 16, 1990 Pizzuto contends that as he attempted to approach a floor microphone at the Local 560 nominations meeting to second the nomination of delegate candidate Gordon Scott, a Local 560 member associated with the internal political caucus known as Teamsters for Teamsters (TFT), members of an opposing internal caucus known as Teamsters for Liberty (TFL), including Val Ortense, Anthony Grazioso, Charles DiGregorio, Ken Dyson and Daniel Sciarra, jostled him, punched him and verbally abused him in an effort to intimidate him and those members politically aligned with him and the TFT caucus

Carmen Pizzuto
Page 2

Pizzuto further contends that upon his return from the microphone, he was verbally abused by Sciarra and others and physically assaulted as well as verbally abused by Grazioso. Pizzuto also contends that Robert Marra, Secretary-Treasurer of Local 560, a member of the TFL caucus, supported by that caucus in his successful election to the position of Secretary-Treasurer and a candidate for delegate on the slate supported by that caucus, failed to restore order to the meeting in a timely fashion, as Pizzuto contends he was obligated to do as chair of the meeting. Pizzuto contends that such failure was intentionally done in order to further intimidate the supporters of the TFL caucus and the candidates that such caucus was supporting.

Ortense, Grazioso, DiGregori, Dyson, Sciarra and Marra are all TFL members and supporters. Marra was nominated as a candidate for delegate on the TFL slate. Ortense is the shop steward at Kingsway Motor Freight in Carlstadt, New Jersey, a facility employing Local 560 members (see Bohan and Ortense, Election Office Case No P-320-LU560-NJE, 91-Elec App -61 SA) Grazioso is the assistant shop steward at the same location.

In 1985, as the result of a lawsuit brought by the United States under and pursuant to the Racketeer Influence and Corrupt Organization Act (RICO) 18 USC § 1961 et seq, Local 560 was placed under court supervision, the then Local officers removed and a trustee appointed by the court to conduct the affairs of the Local United States v. Local 560, IBT 780, F 2d 267 (3rd Cir 1985) TFL was organized to oppose the Court decision and trusteeship imposed on Local 560 It appears to have as its principle goal the termination of Court supervision of the Local

TFL is a membership organization It holds regular meetings, elects officers and collects membership dues. TFL also raises money through the sale of t-shirts, jackets and other items of clothing apparel bearing the TFL emblem TFL supports candidates for office and other positions in Local 560 All current officers and business agents of Local 560 were elected on a TFL slate, with the exception of Recording Secretary Al Vallee, all remain members of TFL.¹

TFT was organized in opposition to TFL Pizzuto is a prominent member of that caucus and ran for Local Union office in the 1988 Local Union election in opposition to the TFL slate He had been appointed by the Trustee named by the United States District Court as a business agent for Local 560, a position in which he served until the 1988 elections He was removed from his business agent position by the TFL backed officers who were the successful candidates in that election

¹Vallee ran successfully on the TFL slate in 1988 He is no longer aligned with that organization. At the delegate nominations meeting, he was nominated for a delegate position on the TFL slate by a Local 560 member affiliated with TFT The slate declaration form submitted by TFL, however, did not contain Vallee as a delegate candidate

Local 560 conducted its nominations meeting on December 16, 1990 at 10.00 a m at Schuetzen Park, a large meeting hall located several miles from the Local Union office.² The seating area consisted of folding chairs divided by a center aisle in which a floor microphone had been placed. At the front of the hall was a "head table" with a podium and a microphone. Marra, as chair of the meeting, conducted the meeting from a podium at the middle of the head table. The middle aisle was about 8 feet wide, extending from the front to the back of the room. At the rear of the seating area was a waist-high wall. The wall had an opening in the middle providing entry to the aisle dividing the seating area.

The members attending the meeting were all -- or mostly all -- affiliated with one or the other of the two factions within Local 560. Many of the members wore jackets, t-shirts or other paraphernalia identifying their political affiliation. TFL members had placards, picket signs, a bass drum and an air horn which they used to conduct demonstrations when TFL supported candidates were nominated or to note their pleasure, or displeasure, with statements made from the podium or the floor or with respect to particular candidates, their nominators or seconders.

The nominations meeting was clearly dominated by the TFL caucus. While the two caucuses and their supporters seated themselves on opposite sides of the meeting room, separated by the middle aisle, the number of TFL supporters was so large that they could not be accommodated on their side of the room. Thus, the TFL supporters not only filled the chairs on their side of the room, but sat on the TFT side as well. A large number of TFL supporters stood in the back of the room and in the aisles, other than the center aisle. The TFT group was approximately one-fifth the size of the TFL group.

The Local 560 nominations meeting was loud and boisterous with most of the noise and boisterousness generated by the TFL group. When members of the TFL caucus were nominated, the TFL supporters staged demonstrations, raised placards and picket signs, banged their bass drum and used the air horn to create additional noise. TFL members continuously heckled nominators, seconders and candidates from the opposition slate and shouted obscenities at the speakers with whom they disagreed.

By agreement of the candidates, the members of Local 560 were nominated by slates, that is all the candidates from the Membership Slate, supported by the TFT, were nominated first followed by all the candidates on the slate supported by TFL.³ Prior to the start of the meeting, the slates provided the Secretary-Treasurer of Local 560, who

²Pursuant to court order, all Local 560 meetings are videotaped. The Election Officer has reviewed the video tape for the December 16, 1990 nominations meeting.

³The slates agreed to a coin toss to determine which slate was to be nominated first. This process was approved by the court-appointed Trustee. The court-appointed Trustee also recommended that the caucuses be permitted to participate in the process via demonstrations, picket signs, placards, etc.

was chairing the meeting, with a list of candidates, nominators and seconders. Chairman Marra called on each nominator and each seconder and then the candidate, for his acceptance, in the order in which the slate listed them.

After Gordon Scott, a Membership Slate candidate, had been nominated, Marra called Carmen Pizzuto to second the nomination of Gordon Scott. At this point, Pizzuto, who had been standing in the rear of the room behind the waist high wall, attempted to make his way through the crowd at the back of the center aisle. TFL supporters gathered at the rear of the center aisle. This crowd included Grazioso (several feet to Pizzuto's left as he walked through the crowd), Ortense (standing directly in front of Pizzuto), Daniel Sciarra (standing in front of and to the right of Pizzuto), Charlie DiGregorio (behind Sciarra and to the right of Pizzuto), and Dyson (in front of DiGregorio but farther to Pizzuto's right).⁴ As Pizzuto walked through the crowd, he bent over Ortense's shoulder and asked Ortense to move to allow him access to the microphone.

As Pizzuto attempted to move through the crowd at the back of the room, Ortense moved to his own right and blocked Pizzuto's access to the aisle. DiGregorio moved to his left toward Pizzuto, and TFL supporter Pete DeCarlo moved to Pizzuto's rear. DiGregorio began to jostle Pizzuto, and pushed Pizzuto to his left. At this point, Ortense turned to his own right, coiled, and struck Pizzuto forcefully in Pizzuto's left side with his right forearm and elbow. The blow was sufficient to knock Pizzuto, (who stands six feet tall and weighs about 300 pounds) off balance and into DiGregorio and Sciarra. Pizzuto, Ortense, Sciarra, DiGregorio and Dyson then exchanged words, after which Pizzuto escaped the crowd and approached the microphone.

After making his seconding statement for Scott, Pizzuto left the microphone and proceeded toward the rear of the room, where Danny Sciarra accosted him verbally. The entire room then erupted in noise, and TFL supporters from the front and side of the room ran towards the point of the incident.

As Sciarra and Pizzuto spoke, Ken Dyson grabbed Sciarra by the neck and pulled him away from Pizzuto. Pizzuto then continued a few feet down the aisle to where Grazioso was moving toward him from his position at the rear of the room. Pizzuto and Grazioso, both of whom weigh about 300 pounds, then engaged in what witnesses have described as a "belly butting" altercation, during which both men spoke harshly to one another. After clearing Grazioso's position, Pizzuto left the seating area through the opening in the waist high wall and walked around the room on the outside of the chairs.

As indicated above, the nominations meeting was chaired by Secretary-Treasurer Marra. Marra is a member of the TFL caucus, was supported by such caucus in his candidacy for Secretary-Treasurer and in his candidacy for 1991 IBT International Convention delegate position. When nominated for such delegate position, Marra -- as

⁴Several of these members wore white sweatshirts and were identified by Marra as the Door Committee.

did other TFL supporters nominated -- thanked TFL for its support of him and praised TFL's positions and policies.

After the meeting erupted in noise, Marra made no attempt to restore order to the meeting. He was finally directed to do so by the Court-appointed trustee for Local 560, Edwin Stier. His efforts were neither forceful nor successful, similar to the efforts made by business agent Pat Fallon. It was not until the former President of Local 560, Michael Sciarra, grabbed the microphone some moments later that the commotion ceased.⁵ The entire disturbance lasted about three minutes. It ended when Sciarra requested that the members not "jeopardize" Local 560 with their improper behavior. The nominations thereafter continued including the utilization of picket signs, placards, drums, airhorns and demonstrations as noted above.

The entirety of the Local 560 nominations meeting was a polarized political event. While both contending caucuses were present at the meeting, the TFL caucus and its supporters clearly dominated the meeting. Approximately eighty percent of the members attending were adherents of TFL. TFL supporters utilized placards, picket signs, a bass drum, an airhorn and demonstrations as part of their campaigning strategy at the meeting. The chair of the meeting was a supporter of TFL and publicly thanked members of the caucus for their support. The group identified by Secretary-Treasurer Marra as the Door Committee, some of whom were involved in the incident regarding Pizzuto, was composed of TFL supporters.

The atmosphere created was itself intimidating. The intimidating effect was heightened by the incidents regarding Pizzuto and the inability or failure of the chair to control or restore order. The domination by TFL of the meeting was underscored by the fact that Michael Sciarra, not an officer of Local 560 but a core TFL supporter, was the only member capable of restoring order or decorum to the meeting.

The *Rules* require that the nomination and election process for delegate and alternate delegate to the 1991 IBT International Convention be fair, honest and open. The *Rules* guarantee each and every IBT member the right to participate in that process without fear or threats, and in an atmosphere free of coercion or intimidation. The atmosphere of the Local 560 nominations meeting was the antithesis of that appropriate for a free, honest and open process. The political environment, the domination by the members of the TFL caucus of the conduct of that meeting reduced or eliminated the ability of Local 560 members, including the members who are affiliated with the TFT caucus, from full and open participation.

⁵Michael Sciarra was removed from his position in Local 560 by a 1984 United States District Court Order and has been prohibited by subsequent court orders from seeking or holding any office in Local 560, and from "seeking to exert influence or control over the affairs of Local 560 or any of its benefit plans." United States v. Local 560, 736 F. Supp. 601, 613 (N D N J 1990), United States of America v. Local 560, (N D N J , January 7, 1991) Civ No 82-689 (slip opinion at page 14 - 15)

The intimidation evident at that meeting resulted from the actions of adherents of the TFL including the activity surrounding Pizzuto's second of the nomination of TFL member Scott. The leadership assumed by Michael Sciarra, previously found to be the conduit of La Cosa Nostra, and the obedience to his directives by the members of the TFL caucus, including the elected Local 560 officers, underscores the inherent coercion exercised by TFL at the nominations meeting.

Accordingly, the Election Officer finds that the *Rules* have been violated by the conduct of the TFL caucus, whether undertaken deliberately or not. Pursuant to the authority granted to him under the *Rules*, the Election Officer directs that Local 560 shall conduct a new nominations meeting for delegates and alternate delegates to the 1991 IBT International Convention. The date of such nominations meeting shall be determined by the Election Officer in consultation with the court-appointed trustee for Local 560.

At such nominations meeting, no campaigning shall be permitted inside the meeting room or within 100 feet of any entrance to the nominations meeting room. Said nominations meeting shall be conducted by a representative of the Election Officer who shall perform all functions in connection with that meeting including all functions of the Local 560 "Door Committee."

After the conclusion of the nominations meeting, the Election Officer will determine the date for the conduct of the delegate and alternate delegate election with respect to Local 560 which date shall be within forty-five days from the date of the nominations meeting herein ordered *Rules*, Article II, § 5 (a). The Election Office will arrange for the mailing of ballots, the collection of ballots at the Post Office and the counting of the ballots with respect to that election.

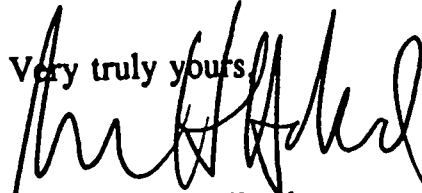
The deleterious effect of the December, 1990 nominations meeting cannot be totally cured by the holding of a new nominations meeting. Candidates not associated with TFL must be given an opportunity to communicate directly with the membership, by mail, to eradicate the prior intimidation and coercion. Since TFL was the source and cause of the atmosphere of fear and intimidation, TFL shall bear the costs of duplicating, processing and mailing such literature. Each slate, other than the TFL slate, nominated at the new nominations meeting for Local 560 shall be permitted a campaign mailing of no longer than two pages, each page no greater in size than 8 1/2" x 11". Each independent candidate will be permitted a campaign mailing of one page, such page no greater in size than 8 1/2" x 11". No photographs will be permitted. The duplicating, processing and mailing shall be accomplished by TFL within seven days, including Saturdays, Sundays and holidays, after the candidates or slates provide such material to TFL.

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

Carmen Pizzuto
Page 7

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 Administrator
Edward T Ellis, Regional Coordinator

IN RE:

CARMEN J. PIZZUTO,
Complainant,
and
TEAMSTERS FOR LIBERTY,
IBT LOCAL UNION NO. 560,
Respondents.

91 - Elec. App. - 110 (SA)

DECISION OF THE
INDEPENDENT ADMINISTRATOR

This matter arises out of an appeal from a March 15, 1991, decision of the Election Officer in Case No. [REDACTED]. A hearing was held before me on March 21, 1991, at which the following persons attended: Luanne Peterpaul, an attorney on behalf of the Teamsters For Liberty Slate ("TFL"); Al Laurie, Local 560 Election Committee Chairman; David Solomon, an attorney on behalf of Local 560; and Edward Ellis, the Regional Coordinator. In addition, some 15 members of Local 560 representing both the TFL and the Teamsters for Teamsters Caucus ("TFT")¹ appeared at the hearing. Still further, by way of telephone conference, the following persons were heard: John J. Sullivan and Barbara Hillman, on behalf of the Election Officer; Saul A. Montalbano, an attorney on behalf of Local 560; and the complainant Carmen J. Pizzuto.

¹ Apparently, members of the TFT Caucus are aligned with the Local 560 "Membership Slate."

MR-27-91 WED 10 00 100 1 11

Mr. Pizzuto, a member of the TFT, claims that when he attempted to second the nomination of a candidate for delegate at Local 560's December 16, 1990, nominations meeting, members of TFL verbally abused him and physically obstructed his ingress and egress to the podium and assaulted him. More generally, it is alleged that the TFL, with the acquiescence of the Chairman of the meeting, Secretary-Treasurer Robert Marra, so dominated and interfered with the nominations meeting that the meeting cannot be considered to have been fair, honest and open.

A request for a hearing was received by my office from Mr. Laurie. In addition, Mr. Montalbano, Local 560's attorney, filed a request for a hearing seeking a modification of the Election Officer's remedial order to reduce the administrative burden on the Local's staff. Local 560's concerns were resolved at the hearing and Local 560 withdrew its request for a hearing based upon the Election Officer's representation that if the staff of the Local becomes overly burdened by the mailing ordered by the Election Officer, it should so advise the Election Officer. The Election Officer will then perform the tasks associated with such mailing and the TFL Slate shall then reimburse the Election Officer in lieu of reimbursing the Local.

Mr. Laurie's request for hearing was honored nonetheless.

The Local 560 December 16, 1990, nominations meeting was videotaped.² I have viewed the videotape.

² Pursuant to Court order in an unrelated case, all Local 560 meetings are videotaped.

As noted, the nominations meeting was chaired by Robert Marra, the Secretary-Treasurer of the Local. At that meeting, Mr. Marra was also nominated as a delegate by the TFL.

Virtually all Local 560 members attending the nominations meeting were affiliated with either the TFT or the TFL. Many were so identified by the jackets, t-shirts or insignias they wore. In addition, the TFT supporters and the TFL supporters were separated by the dividing aisle in the middle of the room -- the TFL supporters sitting on one side and the TFT supporters sitting on the other. However, the TFL supporters outnumbered the TFT supporters and thus, the TFL supporters overflowed into the aisles, the space at the back of the room, and elsewhere. The TFL's presence was made even more conspicuous by their use of placards, picket signs, a base drum and an airhorn (which was used during the proceedings to show support or displeasure). In addition, during the meeting, the TFL staged demonstrations, engaged in heckling and shouted obscenities at various times.

At the hearing, I received testimony that Local 560 members historically engaged in such demonstrations and campaigning at nominations meeting. In fact, subsequent to the hearing, by letter dated March 22, 1991, Mr. Laurie forwarded to me a tape marked "Local 560 Meeting 10/16/88 - Nominations." I did not view the tape as there was no indication that a copy was also supplied to the Election Officer.³ In Mr. Laurie's cover letter, however, he

³ Subsequent to the hearing, Mr. Laurie also sent me a copy of a videotape of a Union meeting held March 23, 1991. Again, there
(continued...)

indicates that "[t]his tape should supply you with a better understanding of the membership's conduct historically."

At the nominations meeting, Mr. Pizzuto, a member of Local 560 and a prominent member of TFT, attempted to second the nomination of Gordon Scott, a Membership Slate candidate. As soon as Mr. Pizzuto's name was announced, TFL supporters began to verbally harass Mr. Pizzuto. Although the videotape does not focus in on Mr. Pizzuto's entrance down the aisle towards the podium, it is not disputed that TFL supporters blocked Mr. Pizzuto's entrance and began to elbow him. In addition, it is not disputed that Mr. Val Ortense, a supporter of the TFL, struck Mr. Pizzuto.

During Mr. Pizzuto's time at the podium, he was repeatedly verbally accosted by the TFL supporters and had to shout to be heard over the crowd. After he left the podium, Mr. Pizzuto began to walk back up the aisle towards the back of the room. This time Mr. Pizzuto was accosted by Daniel Sciarra. As another scuffle broke out, the video camera turned away from the scuffle. The entire room erupted into noise and confusion. It is not disputed that Mr. Pizzuto and a TFL supporter engaged in another physical altercation at the back of the room during this period. Finally, Mr. Pizzuto was able to leave the area.

³(...continued)

was no indication that the Election Officer had been sent a copy, thus I did not view the tape. In Mr. Laurie's cover letter to me transmitting the tape, he indicated:

Examination of this Union meeting would give you the opportunity to judge the membership's perception of intimidation between each opposing political caucus, relevant to Mr. Holland's pending decision.

During this entire commotion, the Chair, Mr. Marra, who is closely associated with the TFL, took no action on Mr. Pizzuto's behalf. Mr. Marra's efforts to restore order to the meeting were half-hearted and ineffective. This is clear from the videotape.

Although not captured on the videotape, it is not disputed that order was not restored until Michael Sciarra, also a TFL supporter, took the podium and asked for order. Mr. Sciarra is the former President of Local 560. He was banned from that position by a 1984 Court Order of the United States District Court for the District of New Jersey and subsequent Court Orders issued in the matter of United States v. Local 560.

The Election Officer's Regional Coordinator was present at the meeting. In addition, the Election Officer viewed the videotape of the meeting. On the basis of that tape and the subsequent investigation conducted, the Election Officer concluded "that the nominations meeting as conducted made a mockery of the process contemplated by the" Rules For The IBT International Union Delegate And Officer Election (the "Election Rules"). As stated by the Election Officer in his Summary:

The TFL contingent, which composed about 80 percent of the attendees, made themselves as conspicuous, loud, abrasive, abusive, bullying and -- most importantly -- intimidating as possible. The unrestrained use of signs, shouts, cat calls, demonstrations, and the drum and air horn could not avoided [sic] leaving a coercive effect on the members not aligned with that slate.

The acquiescence -- indeed, the display of solidarity -- of the Chair could only have enhanced the impression that the meeting belonged to TFL to conduct as they saw fit. The inability or unwillingness of the Chair to provide protection for an opposing member or to

AR-27-91 WED 10 58 INDEPENDENT

maintain or restore order heightened the intimidating effect of the meeting.

The fact that the only force strong enough to restore order was found in the person of Michael Sciarra only confirms the impression of a meeting controlled by the TFL faction.

As a remedy, the Election Officer ordered Local 560 to schedule a new nominations meeting. The Election Officer established ground rules for the new meeting. Pursuant to the Election Officer's ruling, no campaigning shall be permitted inside the meeting room or within 100 feet of any entrance thereto. In addition, a representative of the Election Officer will conduct the meeting and perform the functions previously "performed" by the previous "Chair" and "Door Committee" composed of by TFL supporters.

The Election Officer further determined that the lingering effect of the nominations meeting would not be cured without additional measures. Accordingly, he directed that all candidates and slates not associated with TFL should be given the opportunity to communicate directly with the membership "outside the shadow cast by the TFL through a campaign mailing of limited scope to be financed by TFL."

The Election Officer further ordered that he would determine the date for the nominations meeting, the date for the election of delegates and alternate delegates and all other necessary and appropriate arrangements for conducting the vote.

TFL, through its attorney, strenuously objected to the remedy imposed by the Election Officer. TFL argued that the spontaneous

outburst at the meeting, the use of placards, the base drum, and the airhorn, were all consistent with past practice. In addition, it was argued that such outbursts are an essential part of the democratic process and consistent with the conduct of participants of national political conventions. In addition, Local 560 argued that the confrontation with Mr. Pizzuto was not an "organized" confrontation and was not part of an organized TFL scheme. Rather, it was argued that the confrontation was between individual members acting on their own. The defenses and explanations advanced by the TFL and Local 560 are rejected.

The past practice of Local 560 is of no relevance. The election for delegates to the 1991 IBT International Convention is unprecedented. The Election Officer is charged with the responsibility of supervising that process. The Election Officer must insure that the process is a "fair, honest and open" one. Election Rules, Preamble at p. 1. The Election Officer need not tolerate what may have been tolerated in the past.

Moreover, any analogy drawn between what happened at the December 16 meeting with the spontaneous outbursts of support that permeate national political conventions is a strained one. The clamour from the TFL supporters, while perhaps intended only to show support, clearly had a coercive and threatening impact. The true message implicit in each of the TFL's outbursts reared its ugly head when Mr. Pizzuto was physically attacked. While the TFL Slate may not have conspired to attack Mr. Pizzuto, the fact that he was attacked was a natural outgrowth of the atmosphere created

by the TFL supporters. In short, the TFL supporters were successful in creating what can only be described as organized chaos.

In approving the Election Rules, United States District Court Judge David N. Edelstein, in United States v. International Brotherhood of Teamsters, 742 F.Supp. 94, 97 (S.D.N.Y. 1990), stated as follows:

Before examining the Election Rules and objections to them in detail, this Court must emphasize that its notion of fair, free and honest elections means more than just an honest ballot. Fair elections demand that IBT members are given a meaningful uncoerced choice of candidates. Candidates must be freed of any hesitation about speaking openly on issues, including criticism of the incumbent IBT structure. Candidates must be fearlessly free to communicate those views to the membership. Members must be assured and given confidence that they need not fear to engage in untrammelled discussion.

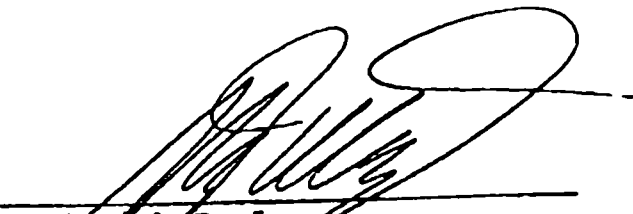
The Election Officer's ruling and remedy here is designed, as Judge Edelstein directed, to give Local 560 members "a meaningful uncoerced choice of candidates." In addition, the remedy is designed to insure that those candidates are "freed of any hesitation about speaking openly on issues, including criticism of the incumbent [Local 560] structure." If the December 16 nominations meeting was tacitly approved, Judge Edelstein's directive that "[c]andidates must be fearlessly free to communicate [their] views to the membership," would be ignored. In short, the Election Officer's decision and remedy in this matter is designed to assure and give confidence to the members "that they need not fear to engage in untrammelled discussion."

I recognize that the Election Officer did not receive any indication that anyone who wished to nominate a candidate was not given the opportunity to do so at the meeting. This does not lessen the need for a new nominations meeting. The only way to insure that all those who wanted to run were given a "fair, honest and open" opportunity to run, is to have the Election Officer conduct another meeting, free from any taint of intimidation. Moreover, by having the Election Officer conduct a proper nominations meeting, a clear message is sent not only to the TFL, but to every member of Local 560, that the Election Officer will not tolerate any suggestion of intimidation or coercion and that the participants in the election process must conduct themselves in accordance with basic standards of civility.

In addition, by imposing the burden on the TFL of paying for the mailings of all opposing candidates, the TFL will hopefully learn the hard lesson that their shenanigans will not be tolerated and that any future action which in any way interferes with a "fair, honest and open" election process will be addressed swiftly and harshly.⁴

⁴ On March 25, 1991, I received a facsimile transmission. The printing on the top of the cover page indicated it was "from Local 560." The body of the cover page cover page indicated it was from "Carmen Pizzuto." The message on the cover read: "A request that all charges are to be dropped in the Case No. P-169-LU560-NJE." The second page of the transmission also indicated, by the printing at the top, that it was "from Local 560." The second page was a letter from Mr. Pizzuto to Mr. Sciarra. In Mr. Pizzuto's letter, he indicated that he was "dropping charges against V. Ortense, C. Gidregoris, K. Dyson, A. Grazioso and also Mr. R. Marra." The Independent Administrator is shown as a "cc" to that letter. By copy of letter dated March 25, 1991, from the Regional Coordinator (continued...)

Accordingly, the Election Officer's decision is affirmed in all respects.



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

Dated: March 27, 1991

⁴(...continued)
 to the Election Officer, it is explained that the Regional Coordinator spoke with Mr. Pizzuto and it is Mr. Pizzuto's purpose to only "withdraw the internal Union charges he filed against the members listed in the letter." According to the Regional Coordinator, Mr. "Pizzuto stated that it was not his intent to withdraw the protest he filed with the Election Office. He disclaimed any knowledge of the text of the telecopy cover sheet . . ." It is clear that by sending these faxes to me, Local 560 was intending to convey the false message that the matter had been amicably resolved. Local 560's conduct in this regard is totally inappropriate, as was Mr. Laurie's ex parte transmittals to me of the two videotapes. Although inappropriate, Local 560's and Mr. Laurie's actions were unfortunately consistent with an apparent effort to frustrate the Election Officer's authority.