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March 11, 1991

**VIA UPS OVERNIGHT**

Gary B. Wade  
171 S. Carlson  
Westland, MI 48185

Kenneth L. Hollowell  
Secretary-Treasurer  
IBT Local Union 247  
2741 Trumbull Ave.  
Detroit, MI 48216

Re: Election Office Case No. P-180-LU247-MGN

Gentlemen:

A pre-election protest was filed pursuant to the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("*Rules*"), by Gary B Wade. He alleges that the December, 1990 issue of Local 247's monthly newspaper had pictures of Local Union officers, who were candidates for delegate and alternate positions, and statements by Mr. R.V Durham, an International Vice President, supportive of these candidates. He alleges that the inclusion of these pictures and statements in the newspaper improperly promotes the 1991 IBT International Convention delegate campaigns of the incumbent Local Union officers.

On January 10, 1991, the Election Officer deferred ruling on the above-referenced protest until after Local 247's election. The ballots for this election were mailed on December 21, 1990 and counted on January 18, 1991. Since the candidates for alternate delegates were uncontested, the ballot consisted of the Working Teamsters Slate headed by Gary Wade and the Hollowell/Aloisio Rank and File Slate headed by Ken Hollowell and Joe Aloisio as well as three independent candidates for delegate, running for the six delegate positions. A total of 773 ballots were counted. The number of votes for the lowest-ranking candidate (Sal Gonzalez of the Hollowell/Aloisio Slate - 416 votes) was 96 votes more than that for the highest ranking loser (Gary Wade of the Working Teamsters Slate -- 320 votes). There were 62 challenged ballots.

The content of Union publications such as Local 247's newspaper are governed by Article VIII, § 7 of the *Rules*. Under the *Rules*, such publications shall not during a nomination or election campaign.

- (a) use a larger or more attractive picture of someone than had previously been used if that person is a candidate, unless there is a valid journalistic reason for it;
- (b) print uncomplimentary pictures of any candidate;
- (c) print features and accompanying photographs about insignificant or unnewsworthy events in which the accomplishments or qualities of any candidate are heralded; or
- (d) carry a substantial number of articles or pictures featuring a particular candidate, unless all candidates for the same position are given equal treatment, equal space and equal prominence.

On December 21, 1990, the Election Officer issued an Advisory on Union Publications further explicating Article VIII, Section 7 of the *Rules*. The Election Officer indicated that he would consider the publication of certain types of material to constitute improper support, including:

1. Pictures or articles stating or indicating support of the candidacy of a particular candidate.
2. Prominent, particularly cover, photographs of a candidate.
3. Numerous photographs of the same candidate accompanying a single article.
4. Numerous articles in the same edition about a particular candidate.
5. Pictures or articles reporting on the activities of a particular candidate where the same or similar activities of other candidates for the same office(s) have not been similarly reported.

The Election Officer reviewed the issue of the monthly magazine for December, 1990 as well as many previous editions of the Local's newspaper, Local 247 Perspective. On page 6 of the December, 1990 newspaper is a "Happy Holidays Greeting" from the officers and staff of Teamsters Local 247 and a picture of the members of the Executive Board of Local 247, including a number of the candidates on

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the Hollowell/Aloisio Rank and File Slate. Additionally, there is extensive coverage of the annual Local 247 stewards dinner which was attended by IBT Vice President R.V. Durham as well as other International and Joint Council dignitaries. Also covered are remarks of Vice President Durham made at the stewards dinner praising the leadership and membership of Local 247 in building a strong Local.

Mr. Wade on behalf of his slate alleges that the picture of the incumbent officers and the coverage of R.V. Durham's comments is unusual and impermissibly supports the election efforts of the incumbent officers. Mr. Wade also contends that the picture that appeared on page 6 of the December 1990 issue of the Local 247 Perspective is the same picture that appears in the campaign leaflet for the Hollowell/Aloisio Rank and File Slate

The Election Officer has determined that the picture that appears in the campaign literature is the same picture that was used in the Union newspaper. Upon investigation by the Election Officer, however, it has been found that this picture was separately paid for by the Hollowell/Aloisio Rank and File Slate and was not charged to the Local Union. The picture was then used in the Local Union newspaper without charge to the Local Union. Thus, no facilities or funds from the Local Union were used to promote the partisan political campaign of the Hollowell/Aloisio Rank and File Slate.

The use of the picture itself in the newspaper as a holiday greeting picture is not improper. This type of holiday greeting is not unusual. In fact, in the December, 1989 issue of the same newspaper a similar greeting with a picture of the Executive Board was included. There is nothing inherently improper about a season's greeting with an accompanying picture and because this has been a past practice in non-election years, the inclusion of the holiday greeting and picture in the December, 1990 newspaper is not inappropriate and does not violate the *Rules*.

Mr. Wade also protests the newspaper's coverage of the steward's dinner and Mr. Durham's remarks at that dinner. The steward's dinner is an annual event which has regularly received extensive coverage in the Local 247 Perspective. The annual dinner and the remarks from an International officer, such as Vice President Durham, is inherently newsworthy. While these remarks were supportive of the candidacy of the incumbent officers, including Ken Hollowell and Joe Aloisio, it may not be concluded that the mere inclusion of these remarks in the newspaper was sufficient to affect the outcome of the election.

With 773 counted ballots, and a margin of 96 votes between the lowest winning delegate candidate and the highest losing delegate candidate, this margin of victory is too great to permit a reasonable conclusion that the outcome of the election would have been affected by the report of the stewards dinner and Mr. Durham's remarks at that dinner. For a violation to have affected the results of the election, there must be a meaningful relationship between the violation and the results of the election. See Wirtz v. Local Unions 410, 410A, 410B & 410C, International Union of Operating Engineers, 366 F.2d 438 (2nd Cir. 1966). The articles and comments included in the December,

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1990 Local newspaper concern valid journalistic subjects that are newsworthy and of interest and concern to the Local's membership. The portrayal of Local officers is no different than the portrayal and coverage of the Local officers engaged in similar activities in prior, non-election years.

Protests determined post-election shall only be considered and remedied if the alleged violation may have affected the outcome of the election. *Rules*, Article XI, § 1 (b)(2). The coverage afforded the incumbent Local Union officers in the Local 247 Perspective either did not violate the *Rules* and/or affect the results of the delegate election for Local 247.

Accordingly, Mr. Wade's protest concerning the December, 1990 newspaper coverage 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 Administrator  
James De Haan, Regional Coordinator