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January 10, 1991

VIA UPS OVERNIGHT

Terrance Majka
Secretary-Treasurer
IBT Local Union 182
5 Rutger Park
Utica, NY 13501

Al Szablak
4793 Creaser Rd
Westmoreland, NY 13490

Victor Olivadoti
President
IBT Local Union 182
5 Rutger Park
Utica, NY 13501

Re: Election Office Case No. P-226-LU182-PGH

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*"). The protestor citing Article X, § 1(b)(3) of the *Rules*, protests the campaign literature published and distributed by nominated IBT International Convention Delegate Al Szablak on the grounds that such literature contains the insignia of the IBT

Article X, § 1 (b)(3) of the *Rules* does not prohibit utilization of IBT insignia on campaign literature. That section of the *Rules* instead prohibits only the use of the Union's official stationery with the Union's insignia

"The use of the Union's official stationery with the Union's name, insignia, or other mark identifying the Union is prohibited irrespective of compensation or access "

Thus neither Article X, § 1 (b)(3) of the *Rules* nor any other provision of the *Rules* prohibits utilization of the insignia of the IBT on campaign literature. Further, the use of the insignia on the literature here in question is in no way misleading. The document in question is clearly campaign literature. The document by its terms clearly

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demonstrates that it is not an official notice or other literature published or endorsed by either Local 182 or the International Union. The use of the insignia on this type of literature does not convey an impression that it is official literature of the IBT or any subordinate body of the IBT.

Accordingly, the protest is DENIED in its entirety.

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
William B. Kane, Regional Coordinator

the use of the Union's' official stationery with the Union's insignia. No other Election Rule is applicable.

As the Election Officer noted in his decision, the use of the insignia on the literature here is not deceptive or misleading because the literature is clearly campaign literature and not an official notice implying the endorsement of Local 182 or the International.

Mr. Majka argues that the use of the International logo by Mr. Szablak in his campaign literature violates § 401(g) of Labor Management Reporting and Disclosure Act ("LMRDA"), citing to McLaughlin v. Federation of Musicians, 132 LRRM 2508 (S.D.N.Y. 1988),² and seeks appropriate sanctions. Under the circumstances here, I see no reason why the use of the logo should draw any sanctions, even if, as Mr. Majka contends, § 401(g) has been technically violated. The officers of Local 182 cannot seriously contend that anyone could have thought that what Mr. Szablak was using, the IBT's logo, was done with the authorization or blessing of Local 182. Even more significant, as has just been noted, and a point addressed in McLaughlin, it was IBT's logo, not Local 182's. It cannot be said that its use promoted Mr. Szablak's

¹ The Election Rules, "Definitions," § 39 at p. A-8, define the term "Union" as the International Union, all Local Unions and all other subordinate bodies, unless explicit distinction is made. Article X, § 1(B)(3) makes no such explicit distinction. The logo here was the International's.


² The Court in McLaughlin states (*Id.* at 2515): "The use of a union logo, by itself, on campaign literature need not inevitably violate section 401(g)."

"candidacy." McLaughlin, 132 LRRM at 2516. It is clear that this use did not affect the outcome of the election. Ibid.

Mr. Baptiste in argument before me, has suggested that the Election Officer issue an advisory that no campaign material should contain the Union logo. This is a matter for the Election Officer to consider, particularly since there may be cases where such logo use could affect the outcome of an election.

I do not regard as persuasive the argument of the Election Officer that the IBT logo is used in the campaign literature of other candidates.

The decision of the Election Officer is affirmed.



Frederick B. Lacey
Independent Administrator

Date: January 18, 1991.