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March 22, 1991

**VIA UPS OVERNIGHT**

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Herman Spikes  
c/o Working Teamsters  
for Ron Carey Slate  
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Jimmie Petroff  
5888 Clarkston Rd.  
Clarkston, MI 48016

Re: Election Office Case No. P-259-LU614-MGN  
P-277-LU614-MGN  
P-330-LU614-MGN  
P-389-LU614-MGN  
Post15-LU614-MGN

Gentlemen.

This matter involves a number of essentially similar protests filed over a period of several weeks by Messrs Jimmie Petroff and John R Scott, pursuant to Article VIII, § 1 of the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("*Rules*") In these protests, Messrs Petroff and Scott allege that the Local Union failed to timely provide their slate with a list of employer worksites so that they might campaign for delegate, thus depriving them and the members of Local 614 of a fair and democratic election.

Case No. P-259-LU614-MGN was filed by Mr. Petroff on January 10, 1991. Case No. P-277-LU614-MGN was filed by him on January 13, 1991. Case No. P-330-LU614-MGN was filed by Mr. Petroff on January 17, 1991. Case No. P-389-

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LU614-MGN was filed by Mr. John R. Scott of the same slate on January 23, 1991. Case No. Post15-LU614-MGN was filed by Mr. Petroff on February 19, 1991. The pre-election protests were consolidated by the Election Officer on January 18, January 25, and January 29, 1991. The pre-election protests were deferred for post-election consideration by order of the Election Officer on January 29, 1991.

The election for Local 614 to select four delegates and four alternates to the International Convention took place in January, 1991. Specifically, 3,045 ballots were mailed on January 15, 1991 and the election count took place on January 30, 1991. The ballot contained two slates. One, headed by President Michael Bane and Secretary-Treasurer Robert Elkins, was called The Mike Bane Slate. The Working Teamsters for Ron Carey Slate was headed by Mr. Petroff and included Mr. Scott. The Mike Bane Slate won all four delegate and alternate delegate positions. The margin between the lowest ranking winner, Karen Lankford (440 votes) of the Mike Bane Slate, and the highest ranking losing candidate Mr. Petroff (191 votes) of the Working Teamsters for Carey Slate was 249 votes in the delegate race. In the alternate contest, the winning alternate with the lowest number of votes (George Dix -- 464 votes) had 265 more votes than the only alternate candidate from the Working Teamsters for Ron Carey Slate, Mr. James Klynstra with 199 votes.

On December 8, 1990, Mr. Petroff wrote to Secretary-Treasurer Robert Elkins requesting the right to inspect and make notes from all collective bargaining agreements as provided under Article VIII, § 1 of the *Rules*. He indicated specifically that if the Local intended to satisfy the *Rules* by providing a list of all employers, it should include all worksites for Local 614 members. The Local responded by letter dated December 17, 1990 that Mr. Petroff could review the contracts at 9.00 a.m. on December 19, 1990, however, Mr. Petroff did not receive that letter until December 21, 1990. There was then some difficulty in scheduling a time to review the collective bargaining agreements since Mr. Petroff is a long-haul road driver for Fleet Carrier and was on the road at some times. On January 10, 1991, and January 11, 1991, Mr. Petroff reviewed 67 collective bargaining agreements at the Local Union hall. Mr. Petroff then complained to a representative of the Election Officer that he had not been provided with copies of all the contracts or a list of all employers employing Local 614 members.

On January 16, 1991, the Election Officer issued a decision in Election Office Case No. P-259-LU614-MGN denying the protest of Mr. Petroff that he had not been timely provided the collective bargaining agreements covering the membership in Local 614. Mr. Petroff appealed this decision to the Independent Administrator and an appeal hearing was begun on January 17, 1991. Mr. Petroff raised at this time the issue that the list of employers and worksites given to him was not complete. The Local indicated that it would work with Mr. Petroff to satisfy his concerns and, accordingly, the Independent Administrator designee remanded the issue to the Election Officer for further investigation and to see if an acceptable accommodation could be reached between the parties to the appeal.

During the period of such further investigation, the Local Union agreed to prepare a further list, to be generated by computer, of all employers employing Local 614 members and of all sites where such members worked. On January 25, 1991, the Election Officer wrote to the parties indicating that in conversations between Election Office Representative John Sullivan and Mr. Petroff the computer list of employers and addresses furnished to Mr. Petroff on January 23, 1991, as a result of a conference call between Mr. Sullivan and the parties on the day before, was "responsive to his request" and thereby resolved the matter, Mr Petroff ". . . preserv[ing his] right to file [a] protest later if [he] needed to . . . ."

Subsequent to the election count, Mr. Petroff renewed his protest concerning the dilatory response of the Local Union in providing the employer worksite information. The Election Office conducted an investigation of the access afforded on January 10 and 11, 1991 when Mr Petroff was provided with 67 collective bargaining agreements and the access list afforded by providing the worksites, including 138 employers, on January 23, 1991. A very large percentage of the employers listed on the worksite list of January 23, 1991 which had not been identified on January 10 and 11, 1991 were owner/operator employers employing only one employee. Consequently, the number of potential voters affected was relatively small.

Mr Petroff also complained that certain well-known employers were not contained on the January 23, 1991 list, including Roadway Freight, Yellow Freight and Carolina Freight. In reviewing this complaint, the Election Officer observes that these major national employers and their worksites within the jurisdiction of Local Union 614 are well-known by the membership of that Local and such worksites are easily traceable with any modest degree of effort. Indeed, Mr Petroff advised that he campaigned at Roadway worksite. Only a few employers, such as Genesee Welding Supply, would be less easily known by the members of the challenger slate.

It should also be noted that Mr. Petroff ran for Local Union office in October 1989 and thus had the opportunity at that time to identify employees and their worksite locations. Additionally, the campaign contest between the incumbent slate and the challenger slate in Local 614 was characterized by robust debate and considerable campaign activity, reducing the likelihood that any deprivation of an opportunity to campaign at a particular worksite would be of significant consequence. Mr Petroff's Working Teamster slate sent a mailing to all members of the Local as provided by the *Rules*.

Article XI, § 1 (b)(2) of the *Rules* provides that: "Post-election protests shall only be considered and remedied if the alleged violation may have affected the outcome of the election." For a violation to have affected the results of the election, there must be a meaningful relationship between a 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). In view of the foregoing facts, it may not realistically be concluded that the delay of the Local in providing the list of the particular employers in this case substantially prejudiced the ability of the challenger slate to campaign

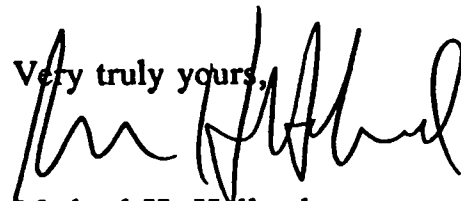
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meaningfully. Moreover, the number of employees working for those employers not known to the members of the challenger slate was relatively small. A small number of potentially affected voters in the context of an election won by a wide margin, such as this one, is a factor militating against the rerun request of the challengers. Wirtz v. Local Union 125, International Hogg Carrier's Building and Common Laborer's Union, 270 F Supp. 12, 62 LRRM 2141, 2148 (N.D Ohio, 1966). Consequently, while the Local did commit a violation with regard to the tardiness in providing a full and complete employer worksite list, there is no way that it may reasonably be concluded that these factors could have affected the outcome of the election. The Working Teamsters slate had access to all members through its mailing and other considerable campaign activity. Most of the employers whose worksites were provided late employed only one member. Minimal effort on the part of the Working Teamsters slate would have revealed the locations of the two larger employers with those worksite locations. Mr. Petroff states he was unfamiliar, i.e., Yellow Freight and Carolina Freight. Thus, the belated response of the Local in providing a full and complete worksite list until eight days before the election did not prevent Working Teamsters slate from membership access. The outcome of the election was not affected.

Accordingly, the consolidated protests of Mr. Petroff and Mr. Scott are therefore 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

614/M6N

IN RE:

JIMMIE PETROFF,  
JOHN R. SCOTT,

Complainants,

and

IBT LOCAL UNION NO. 614

Respondents.

91 - Elec. App. - 116 (SA)

DECISION OF THE  
INDEPENDENT ADMINISTRATOR

This matter arises out of an appeal from a March 22, 1991, decision of the Election Officer. The Election Officer's decision encompasses four pre-election protests and one post-election protest. The Election Officer decided, pursuant to Article XI, Section 1.a.(4)(b) of the Rules For The IBT International Union Delegate And Officer Election (the "Election Rules"), to treat the four pre-election protests as a post-election protest and to decide all five protests as one. A hearing was held before me by way of telephone conference on March 29, 1991, at which the following persons were heard: John J. Sullivan and Barbara Hillman, on behalf of the Election Officer; the complainants, Jimmie Petroff and John R. Scott; Michael Bane, President of Local 614; and George Geller, an attorney for the Local.

The underlying protests involve an alleged failure of the Local to comply with Article VIII, Section 1.c. of the Election Rules which contemplate that upon request, locals shall promptly provide candidates with addresses where any and all of its members

work. The complainants allege that the worksite information provided to them was incomplete.

The relevant information concerning Local 614's delegate election is found in the Election Officer's Summary as follows:

The election for four delegates and alternates from Local Union No. 614 was held by mail ballot between January 15 and January 30, 1991. Of the 3,045 ballots mailed out, 774 were returned timely for counting. Of these, 123 were void or challenged; 652 were counted as valid.

The slate opposing the protesters was the Mike Bane Slate, headed by the incumbent President. The Mike Bane Slate won all four delegate and alternate positions. The margin of victory in the delegate election was significant. The losing candidate for delegate with the most votes (protester Jimmie Petroff with 191 votes) lost to the winning candidate with the fewest votes (Karen Lankford with 440 votes) by 249 votes, a margin of almost 40%. As to the election for alternate delegates, the losing candidate on the Working Teamsters for Ron Carey Slate (James Klynstra with 199 votes) lost to the lowest-ranking winner on the Mike Bane Slate (George Dix with 464 votes) by a slightly larger margin, 265 votes.

Article XI, Section 1.b.(2) of the Election Rules provides that post-election protests will only be remedied if the alleged violation "may have affected the outcome of the election." With this limitation in mind, the Election Officer found, as stated in his Summary:

In this case, the infraction alleged does not appear to have had that affect. There is little doubt that the protesters were never provided names and addresses for every employer who employs a single Local 614 member. But the omissions do not add up to a significant deprivation.

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Given the magnitude of the margin of victory and the insubstantial number of employees that the protesters may

not have had opportunity to contact at their worksites, it does not appear probable that the worksite list omissions materially affected the election.

Naturally, in determining whether any violation "may have affected the outcome of an election," a certain amount of speculation must be exercised. In this connection, the expertise of the Election Officer is entitled to some weight that will vary with the circumstances. The circumstances here support the Election Officer's determination as I have been given nothing contrary in the record.

First and foremost the margin of victory here is substantial. Second, the losing candidates gained access to every single member of the Local by way of a campaign mailing which was distributed the same day as the ballots. Moreover, even accepting the fact that the candidates may not have been provided with all worksites, they were provided with enough worksites to afford them access to a significant portion of the Local's membership. In addition, the complainants had independent knowledge of the location of many other worksites.

Accordingly, the decision of the Election Officer is affirmed.

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

Dated: April 1, 1991