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January 17, 1991

VIA UPS OVERNIGHT

Robert Helderle
9116 Bobb
St Louis, MO 63103

Bob Miller
Secretary-Treasurer
IBT Local Union 618
300 S. Grand Blvd.
Union Plaza, Room 232
St. Louis, MO 63103

Re: Election Office Case No. P-280-LU618-MOI

Gentlemen.

A pre-election protest has been filed pursuant to Article XI of the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("*Rules*"). The Complainant, Robert Helderle, is seeking to be elected delegate as a member of the Rank and File Slate of Local 618. The opposition slate is called the Miller Slate. The protest alleges that the Miller Slate posted a sample ballot and that the word "sample" was used to obscure the portion of the ballot which listed the names of the candidates on the Rank and File Slate.

Local 618 is conducting a mail ballot election. Delegates were nominated on December 7, 1990 and ballots were mailed out on January 5, 1991. Ballots are due back by and will be counted on January 22, 1991.

The Complainant, Robert Helderle, has regularly visited worksites of Local 618 members during the campaign. On January 11, 1991, he visited three worksites at Lambert Airport in St. Louis, Missouri. The actual ballots are different in color, weight, and texture from the xerox; the copy cannot be mistaken for an actual ballot. On the bulletin boards at those sites, Helderle discovered sample election ballots posted on the boards. The sample ballots were xerox reproductions of the actual election ballots. The reproduction contained a blackened arrow indicating a vote for the Miller Slate and in the space next to the list of Miller Slate candidates, an exhortation to "Vote Miller Slate." The word "sample" was written on the ballot in the area where the candidates for the Rank and File candidates were listed and the first two letters of the word partially obscure the names of the candidate.

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In addition to the foregoing, the posting in question contains lines drawn through the phrase, "Vote Miller Slate" and the word "No!" written next to this phrase in letters approximately the same size.

According to the Complainant, the sample ballots in question must have been posted one day or two before he discovered them. Additionally, there is evidence that similar "sample" ballots were posted at other worksites.

Since this was a mail ballot election, every voter has in his or her possession an unmarked official election ballot. The campaign materials were either copies of the sample distributed by the Election Officer or copies of a ballot actually received by a Local 618 member.

The Complainant does not allege, nor does the evidence show that voters could have misconstrued the document which was posted as a document by which the Election Officer endorsed a particular slate. Every voter has an unaltered ballot and the word "sample" was clearly written on the posted ballot of issue. The other writing on the ballot would make it clear to any voter that the document was a piece of campaign propaganda. The use of such propaganda does violate the *Rules*.

The Complainant does contend that the document is objectionable because the word "sample" obscures the names of the Rank and File Slate. The placement of the first two letters of the word "sample" in the box listing the Rank and File Slate candidates does not constitute a violation of the *Rules*. Every interested voter would be aware of the names of candidates for delegate through the post-nomination posting of delegate candidates, *Rules*, Article II, § 4 and through their receipt of a real ballot. Moreover, on the bulletin boards in question, the Complainant was able to post his own campaign literature on the day in question. Finally, the activity in question took place relatively late in the campaign period, after all of the ballots have been mailed out. For all of these reasons, it would not effectuate the purposes of the *Rules* to find a violation herein.

Accordingly, the protest here 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,

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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
Michael D. Gordon, Regional Coordinator