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January 28, 1991

VIA FACSIMILE (WHERE NOTED) AND UPS OVERNIGHT MAIL

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Re. Election Office Case Nos P-326-LU572-CLA and
P-333-JC42-CLA

Gentlemen:

Two pre-election protests have been filed in accordance with Article XI of the Rules for the IBT International Union Delegate and Officer Election, revised August 1, 1990 ("Election Rules"). Those protests were consolidated by the Election Officer because they are based on the same underlying facts and allege the same violation of the Election Rules¹ In their protest, Mr Worley and the Ron Carey campaign allege that

¹By TITAN message dated January 23, 1991 from Local Union 572, Mr. Worley sought to withdraw his protest "without prejudice." Since the identical issues are presented by the Carey Campaign's protest, it is unnecessary for the Election Officer to examine the circumstances of this withdrawal or to determine whether such withdrawal

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the Election Rules were violated by the use of the TITAN electronic mail system for campaign purposes and the invitation of announced IBT General Presidential candidate R V. Durham to a meeting of Joint Council 42. The Election Officer's investigation revealed the following.

On January 11, 1990, Michael J Riley, President of IBT Joint Council 42, sent an TITAN Electronic Mail message to all Chief Executive Officers ("CEOs") of Local Unions within Joint Council 42. In that message, Riley announced that the next meeting of Joint Council 42 delegates would take place at 8 00 pm on Friday, February 1, 1991, in the Main Hall of the Teamster Building in Los Angeles, CA. Riley also stated that "[o]ur special guest speaker that evening will be IBT Vice President R V Durham" and that Mr Durham, as Director of the National Freight and Health and Safety divisions of the IBT, would address "problems" in both subject areas. The message concluded by urging the recipients, along with their delegates and staff, to be at that meeting.

On January 15, 1991, Riley sent another TITAN Electronic Message to all Joint Council 42 CEOs. In that message, Riley announced a CEO meeting for 4 00 to 5 00 pm on February 1, 1990. While the previous TITAN message announced that the delegate meeting was to be held at the Teamsters Building, the message announcing the CEO meeting stated that the CEO meeting would take place at the Pasadena Hilton. In this second TITAN message, announcing the CEO meeting, Riley also reminded the recipients of the Durham appearance of the Joint Council 42 delegates meeting and informed the CEOs that Arnie Weinmeister, IBT Western Conference Director, would also be attending the delegates meeting. The message concluded with the statement the "[w]e look forward to seeing you there". Copies of the message were sent to Durham, Weinmeister, Joint Council 7 (Bay Area) President Chuck Mack, and Ben Leal, Secretary-Treasurer of IBT Local Union 856. Local Union 856 is affiliated with Joint Council 7.²

In a leaflet dated January 16, 1991, the "Joint Council 42 Unity Team" announced a fund raiser for the "Durham/Mathis Unity Team" to take place on February 1, 1991 at the Pasadena Hilton Hotel between 5 00 and 6 30 pm. The leaflet states that the

effectuates the purposes of the Rules, inquiries and determinations which the Election Officer generally makes with respect to withdrawal of protests.

² R V Durham is an announced candidate for General President of the IBT. Mr. Durham is seeking that office aligned with other International Officer candidates on the "Durham-Mathis Unity Team". Members of that group include Messrs Riley, Weinmeister, Mack and Leal. Mr Mack is also a member of the five person "Committee to Elect the Durham-Mathis Unity Team" and Mr Leal is the Treasurer of that Committee.

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reception will be for Durham and Unity Team candidates Arnie Weinmeister, Mike Riley, Ben Leal and Chuck Mack. Invited to this reception are "all Chief Executive Officers, representatives, organizers, staff and clerical employees of all Local Unions".

Both the CEO meeting and the Durham-Mathis Unity team fund raiser are scheduled to take place at the Pasadena Hilton. According to the Election Officer's investigation, the CEO meeting was initially scheduled for 1:30 pm, but was changed at the request of Joint Council 42 to 4:00 pm, thus immediately preceding the 5:00 pm fundraiser. The reservations at the Pasadena Hilton for the CEO meeting and for the fund raiser were both made by Joint Council 42.

The Election Officer recognizes that International Union Officers must, as part of their official responsibilities, travel and meet with groups of IBT officers and members. Such International Officers also customarily address meetings of IBT members as part of their official duties. Therefore, it is inappropriate, in the Election Officer's view, to presume that when an International Officer, who is also a candidate, travels or meets with IBT members that activity is automatically a campaign activity. However, in the instant case, the circumstances of the Durham appearance, including the rescheduling of the CEO meeting and the scheduling of the fund raiser, and the participation in the planning of the event by the organizers and members of the Durham-Mathis Unity Team, indicate that the activity in question is, in significant respects, politically motivated.

Article VIII, Section 4 of the Election Rules safeguards the right of candidates to equal access for political purposes to meetings of IBT members. While the Election Rules refer specifically to Local Union meetings, the Election Officer construes this principle to apply to Joint Council delegate meetings as well. In the instant case, R. V. Durham has been invited to address the regular delegate meeting of Joint Council 42, by its President, who is also a member of the "Durham-Mathis Unity Team". The Election Officer finds, on the facts of this case, that Mr. Durham's trip to the Joint Council 42 delegate meeting had political purposes. As such, the Election Rules require that other announced candidates for the office of General President be given a similar opportunity to attend and address this meeting.

If time constraints do not permit these other candidates to attend the February 1, 1991 meeting, then Joint Council 42 shall permit the other announced candidates to attend its March, 1991 delegates meeting. If Mr. Durham's address at the February, 1991 delegates meeting is limited to matters of substantive Union policy, then the other announced candidates may be similarly restricted, at the March, 1991 meeting.

Joint Council 42 argues that requiring it to invite all candidates would turn its meeting into a political meeting. However, the other candidates have expertise and knowledge in subjects that would be of interest to the Joint Council 42 delegates. Permitting the candidates to address the delegates on these subjects, and limiting the

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subjects to non-campaign issues, would prevent the meeting from becoming a political forum

The principle of equal access and equal treatment which underlies the Election Rules requires that all candidates be treated equally by the Union. Thus, under the circumstances of this case, all candidates for International Union General President must be invited to address the Joint Council 42 delegates. Because the TITAN Electronic Mail System was used to announce Durham's appearance at the Joint Council 42 delegate meeting, TITAN electronic messages should also announce the participation of the other announced candidates

In light of the forgoing the Election Officer orders the following relief:

1. Joint Council 42 shall extend to all announced candidates for the office of General President of the IBT an invitation to attend and address the February 1, 1991 Joint Council 42 delegate meeting. Each candidate, or their credentialed representative, shall be given equal time to address the meeting on a topic of his choice. The order of speakers shall be determined by lot, or by any other method agreeable to all candidates, at the time of the meeting.

2. However, if the time constraints noted on page 3 (above) prevent attendance at the February, 1991 delegates meeting and if the Joint Council decides against the "substantive Union policy" presentations by the other three announced International Union General President candidates, (see also page 3 of this letter), then Joint Council 42 may allow a candidates' forum at the March delegates meeting for the discussion of political matters related to the International Union campaign. If this option is chosen, all four (4) International General President candidates, including Mr. Durham, shall be invited. Because this remedy provides for an International Union election event, the reasonable travel and related expenses of the International Officer candidates or their representatives shall be borne by the International Union.

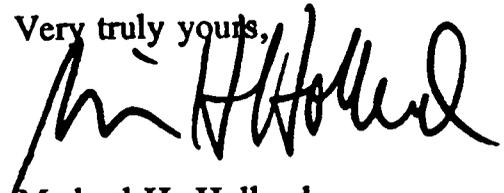
3. Within 48 hours of the receipt of this decision or two weeks prior to the March meeting, if that option is required by time constraints or chosen, Joint Council 42 shall transmit, or cause to be transmitted, a TITAN Electronic mail message to all recipients of the messages discussed above. The message should announce that each of the announced candidates, or their credentialed representatives, will address the meeting, the date of the meeting if other than the already scheduled February 1, 1991 meeting, and the topic of their address if one is supplied by the candidate. The Joint Council shall transmit another TITAN electronic Mail Message 48 hours before the meeting to remind the delegates of Joint Council 42 of the meeting and of the speakers.

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4 The President of the Joint Council shall, no later than February 5, 1991, provide to the Election Officer an affidavit setting forth in detail the steps taken to comply with this order

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
Election Officer

cc Frederick B Lacey, Independent Administrator
Geraldine Leshin, Regional Coordinator