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February 8, 1991

VIA UPS OVERNIGHT

Slobodan Golubovic
5908 S Western
Clarendon Hills, IL 60514

William Joyce
Secretary-Treasurer
IBT Local Union 710
4217 S. Halsted Street
Chicago, IL 60609

Francis McSweeney
103 Sun Shine Circle
Plainfield, IL 60544

Re: Election Office Case Nos. P-341-LU710-CHI
 P-344-LU710-CHI
 P-353-LU710-CHI
 P-372-LU710-CHI
 P-375-LU710-CHI
 P-396-LU710-CHI
 P-424-LU710-CHI

Gentlemen:

The above-referenced protests were timely filed pursuant to Article XI, Section 1 of the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("*Rules*") All of the protests were filed by Mr. Slobodan Golubovic and Mr. Francis McSweeney, two members of the "New Eagles for Ron Carey" slate. The protests all allege that the *Rules* have been violated because the Local has either failed to provide, or obstructed and delayed the inspection of, the collective bargaining agreements and membership lists.

All of these protests were investigated by Adjunct Coordinator Dennis Sarsany. The protests numbered P-341, P-344, P-372, and P-375 allege that the Local failed to respond to Mr. McSweeney's and Mr. Golubovic's requests to inspect collective bargaining agreements within the five-day period specified in Article VIII, Section 1 of

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the *Rules*. On January 9, 1991, prior to the date of the nomination meeting in Local 710, Messrs McSweeney and Golubovic sent written requests for such inspection to the Secretary-Treasurer of the Local. The letters were not acted on until after the date of the nominations meeting held January 13, 1991 because the Local did not consider Mr. McSweeney and Mr Golubovic to be candidates until formally nominated. This interpretation of the *Rules* is incorrect, as the *Rules* clearly provide that a member is considered to be a candidate if he is actively seeking nomination. *Rules, Definitions, Section 7, page A-3.* Mr. McSweeney and Mr. Golubovic were both known to be actively seeking nomination and election as delegates. Thus, the Local violated the *Rules* when it delayed in its response to the request for inspection

The Local later provided a schedule for the inspection of all collective bargaining agreements. The schedules were provided in writing and allocated a three to four hour block of time on each of the scheduled days for the review. The inspection commenced on January 22, 1991, and continued on January 23rd, 25th, 29th, and 31st.

Messrs McSweeney and Golubovic subsequently made a request of the Local that they be permitted to inspect in groups. This request was denied by the Local and a protest was filed (See, P-372-LU710-CHI). The protest alleged that the Local refused to permit candidates to inspect the contracts in groups because the Local wanted to create an intimidating environment. Subsequent to the filing of this protest, the Local requested that a representative of the Election Office be present for each inspection. The Election Office complied with the request and either Deborah Schaaf, Robert Walsh, or Dennis Sarsany, all Adjunct Coordinators, attended every inspection session. They witnessed no harassment or intimidation during these inspections.

Additionally, the Election Office Staff representatives who were present during the inspection believe that the inspection process would not have proceeded any more quickly if additional candidates were present.¹ Thus, there is no violation of the *Rules* with respect to this aspect of the protest.

Messrs. Sweeney and Golubovic also protested that the time provided for inspection was insufficient because it was limited to a single period of three to four hours per day. Mr Golubovic alleged that based upon his past experience it takes more than three days to inspect the bargaining agreements, and one day to inspect the membership list. However, during the mornings of January 22nd and 25th, Mr. Golubovic reviewed all of the contracts in the files of the Local and compared the Local's membership list to his personal list of members. Such review was finished after six hours and forty-five minutes. Thus, the allocated and scheduled time was sufficient to accomplish the appropriate review. This aspect of the protest is DENIED.

¹The contracts presented for inspection were original signed agreements and were provided in an orderly and business-like fashion. Candidate's questions about contracts were answered appropriately.

Mr. McSweeney protests that his personal inspection date, which was scheduled for January 31, 1991, was too late for him to be able to have meaningful campaign access to job sites. (See, P375-LU710-CHI). Mr. McSweeney, however, is a slate member on the New Eagle slate. The Election Officer representatives were informed by the slate members that all members of the slate were sharing information and collaborating with respect to work-site information. Mr. Golubovic specifically informed Mr. Sarsany that he had spoken with Mr. McSweeney following his inspection on January 23. Thus, Mr. McSweeney does not appear to be at any greater disadvantage with respect to campaigning than other members of his slate. This aspect of the protest is DENIED.

The final protest, filed by Mr. Golubovic (P-396-LU710-CHI)² is based upon the fact that the collective bargaining agreements did not yield work-site addresses. Some of the employers referred to in the protest are single-site employers, and, in fact, their addresses were made available to other slate members. Thus, Mr. Golubovic has access to this information, as discussed above. Some of the contracts referenced in the protest were one to two page amendments to the master agreement, which were executed in 1984, 1986, and 1987, and superseded by a master agreement reviewed by Mr. Golubovic on January 22, 1991. Thus, he had all of the relevant information available to him at the time of the review of the master agreement.

To the extent that some contracts between the Local and large, multi-site employers did not reveal satellite work-site locations, the Local promised such a list to the Adjunct Coordinator, Dennis Sarsany, by January 25, 1991. The complete work-site list was not provided, however, until February 1, 1991. At that time the list was inspected by Mr. Sarsany and distributed to the candidates of the New Eagle slate. This list was still missing some few work-sites, albeit not sites where a large number of Local 710 members are employed. Those addresses were provided on February 6, 1991, and distributed to members of the New Eagle slate.

The Election Officer concludes that this delay in providing the work-site list is violative of the *Rules* and tends to limit the campaign access of the protestors. The Election Officer notes that the delay, in and of itself, might not be so prejudicial if the original inspection request had been honored within the five-day provision of the *Rules*. In fact, some fifteen days lapsed between the timing of the request and the commencement of the inspection of the collective bargaining agreements, while the completed work-site was not provided until many days later.

The purpose of Article VIII, Section 1 of the *Rules* is to afford candidates an important campaign right - the right to know the locations where members work. The *Rules* recognize that the most effective means of campaigning is face to face exchanges between IBT members regarding the candidates and issues of the campaign. The purpose

²P-424-LU710-CHI raises the identical issue.

of the *Rules* is to provide candidates with the locations where members work so they have the opportunity to campaign at where members are congregated.

Delays in providing information can also inhibit meaningful campaign exchange with the membership. The delay creates an even greater problem where, as here, the members' work-sites are scattered over a multi-state geographical area.

A complete list of large job sites was not available to the New Eagle slate candidates until ten days prior to the date the ballots for this election were mailed.

At the same time, the Election Officer also notes that many of the New Eagle slate delegate candidates have recently campaigned in an internal Local election, and as a practical matter, have familiarity with sites where members work. However, this practical reality does not excuse the Local's failure to make a response to the request for inspection in a more timely fashion in order to both comply with the Election Process and provide meaningful campaign access.

In order to remedy this violation of the *Rules*, the Election Officer orders the following

The Local shall pay for the printing of campaign literature for the New Eagle slate. The literature shall not exceed one sheet 8 ½" x 11" printed on two sides. The material shall be printed within twenty-four hours after it is supplied by the New Eagle Slate. 12,500 copies of the leaflet shall be printed. Within forty-eight hours thereafter, a copy of the leaflet shall be distributed to a shop steward at each location where Local 710 members work with instructions to the steward to post the leaflet on the Local Union bulletin board. The following language shall be written on Union letterhead stationery, posted with the leaflet: "This is an official Local Union notice posted by order of the Election Officer. The contents of this literature are not endorsed by the Local Union." The remaining copies of the literature shall be given to the New Eagle's slate. The Local shall file an affidavit with the Election Officer no later than February 13, 1991, indicating compliance with the above 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.

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C. 20001, Facsimile (202) 624-8792. A copy of the protest must accompany the request for a hearing.

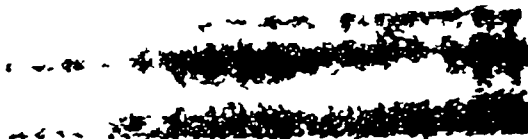
Very truly yours,



Michael H Holland

MHH/ads

**cc Frederick B Lacey, Independent Administrator
Julie Hamos, Regional Coordinator
Marvin Gittler, Esq
Asher, Gittler, Greenfield, Cohen & D'Alba, Ltd
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Chicago, IL 60602
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IN RE:

SLOBODAN GOLUBOVIC,
FRANCIS MCSWEENEY,

and

IBT LOCAL UNION NO. 710.

91 - Elec. App. - 73 (SA)

DECISION OF THE
INDEPENDENT ADMINISTRATOR

This matter arises out of an appeal from a February 8, 1991, decision of the Election Officer regarding a number of protests¹ filed by two members of Local Union 710 alleging that the Local delayed and impeded their inspection of collective bargaining agreements and worksite lists in violation of Article VIII, Section 1.a. of the Rules For The IBT International Union Delegate And Office Election (the "Election Rules").

A hearing was held before me on February 14, 1991, by way of teleconference at which the following persons were heard: Barbara Hillman, on behalf of the Election Officer; Julie Hamos, the Regional Coordinator; Debra Schaf and Dennis Sarsany, both Adjunct Regional Coordinators; Marvin Gittler, an attorney on behalf of Local 710; Martin DeWan, a Business Agent with Local 710; Slobodan Golubovic, a member of Local 710 and a delegate candidate on the

¹ Seven protests in all were filed. The case numbers assigned to these protests by the Election Officer are as follows: P-341-LU710-CHI, P-344-LU710-CHI, P-353-LU710-CHI, P-372-LU710-CHI, P-375-LU710-CHI, P-396-LU710-CHI, and P-424-LU710-CHI.

New Eagle slate; and Harry Bidwell, the Chairman of the New Eagle slate.

The Election Officer Summary, at pp. 2-12, a copy of which is attached, sets forth, in detail, the facts underlying this matter. I incorporate those findings of fact herein by reference.

The Election Officer found two violations of the Election Rules. The first concerns Local 710's failure to comply with requests from "delegate candidate[s] . . . to inspect and make notes from [the Local's] collective bargaining agreements . . . within five (5) days" from the date of such request as provided in Article VIII, Section 1.a. of the Election Rules. (Emphasis supplied.)

Prior to Local 710's nominations meeting, Francis McSweeney submitted a written request for inspection of collective bargaining agreements to the Secretary-Treasurer of Local 710. At that time, Mr. McSweeney also made a request for a list of job sites of Local 710 members who work for UPS. By letter dated January 11, 1991, Mr. Golubovic likewise made a written request to inspect collective bargaining agreements. The Local concedes that it received Mr. McSweeney's request "on or about" January 9 and that it received Mr. Golubovic's request "on or about" January 11.

Mr. McSweeney and Mr. Golubovic were permitted to begin their inspections on January 22, 1991 -- thirteen days following Mr. McSweeney's request and eleven days following Mr. Golubovic's request. The Local explains its delay by contending that it read the applicable rule to mean that only nominated delegate candidates

were entitled to inspect collective bargaining agreements. The nominations meeting for Local 710 was held on January 13, 1991. Both Mr. McSweeney and Mr. Golubovic were nominated as delegate candidates at that meeting as part of the New Eagle Slate.

The Local has misread the Election Rules. Article VIII, Section 1.a. permits "delegate candidate[s]" to inspect. The Election Rules define a "candidate" as "any member who is actively seeking nomination or election for any Convention delegate" Election Rules, at A-3 (emphasis supplied). Thus, the Election Rules make it clear that a Local member may be a candidate without being nominated, so long as he is actively seeking nomination. In this matter, there is no dispute that Messrs. McSweeney and Golubovic were actively seeking nomination for the position of delegate. Thus, I affirm the Election Officer's finding that the Local's delay in allowing Messrs. McSweeney and Golubovic to begin their inspections constitutes a violation of the Election Rules.²

The second violation cited by the Election Officer includes Local 710's additional delay in supplying Messrs. McSweeney and Golubovic with worksite information. This information was not supplied until February 1, 1991, following a specific directive from the Election Office. The Local explains its delay here by again relying on its interpretation of the Election Rules. Article VIII, Section 1.c. provides as follows:

² Even if I were to accept the Local's interpretation, inspections should have commenced January 18, 1991, since Messrs. McSweeney and Golubovic were nominated on January 13, 1991.

~~The right to inspect and make notes from collective~~
 bargaining agreements may be satisfied by the Local Union providing, within the five (5) day period set forth above, a list of all the sites with addresses where any and all of its members work. Such worksite list shall be arranged by employer name.

The Local argues that the Election Rules simply provide locals with the option of complying with a request to inspect collective bargaining agreements by supplying worksite information. The Election Rules, Local 710 argues, does not compel locals to supply such worksite information. In making this argument, Local 710 ignores the clear purpose and intent of the provision regarding the inspection of collective bargaining agreements.

As stated in the "Election Officer Commentary On Final IBT Election Rules," (at p. 20), a copy of which was sent to each IBT Local Union along with the Election Rules themselves:

~~Since the purpose of this rule is to provide~~
candidates for office access to Local Union members for campaigning, I have made one significant adjustment to the Proposed Rules in this regard. The Final Rules provide that a local union, in lieu of permitting inspection of collective bargaining agreements, may provide requesting candidates with a list of all the worksites where any and all of the Local Union members work. The worksite list should include the name of each employer signatory to a collective bargaining agreement with the Local Union. The same use restrictions applicable to collective bargaining agreements applies in the Final Rules to the list of worksites.
 [Emphasis supplied.]

Thus, it is clear that the purpose of allowing candidates to inspect collective bargaining agreements is so they can learn the location where the members of their local are working. This is why the Election Rules give locals the option of simply providing worksite information as an alternative. The Election Officer made

his position clear both in his Commentary and in the sessions that he conducted throughout the country both before and after the Election Rules were adopted. In fact, Mr. DeWan attended one of those seminars on June 14, 1990, on behalf of Local 710.

While the Election Rules do not state that "the purpose of this rule is to provide candidates for office access to Local Union members for campaigning" a fair reading of the provision in question can lead to no other conclusion. First, Article VIII is entitled "Campaigning And Access." (Emphasis supplied). Second, the option to provide worksite lists makes no sense unless the purpose of the collective bargaining agreement inspection is to glean worksite information. Lastly, the Election Rules were not created in a vacuum. They are the product of a comprehensive effort on the part of the Election Officer which included sessions throughout the country to illicit comments and teach members and officers about the Election Rules. In addition, as noted, the Election Officer also issued a Commentary on the Rules. Local 710 participated in the process that led to the adoption of the Election Rules. In addition, Local 710 is represented skilled and knowledgeable attorneys. Given all this, I reject Local 710's contention that it was not aware of its obligation to supply worksite information.

Turning to the remedy to be imposed. The Election Officer ordered Local 710 to print 12,500 copies of a single, two-sided page of campaign literature for the New Eagle Slate, for posting on all Local 710 bulletin boards by shop stewards at each location

where Local 710 members work. Extra copies are to be returned to the New Eagle Slate.

The Election Officer also directed the Local to accompany all postings of the New Eagle Slate literature with a notice, printed on Local 710 stationery as follows:

This is an official Local Union notice posted by order of the Election Officer. The contents of this literature are not endorsed by the Local Union.

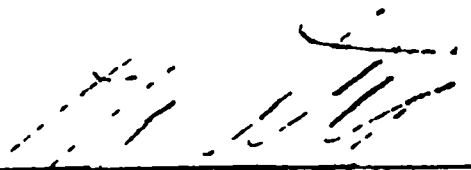
The Local takes exception to this remedy, especially protesting the directive that it post this notice on Local stationery with the words: "This is an official Local Union notice . . ." The Local suggests that this directive violates federal law which prohibits Locals from expending fund or goods on behalf of a candidate. The Local also suggests the remedy is punitive. Both objections are without merit.

The Election Rules provide at Article XI, Section 2, that the Election Officer may take "whatever remedial action is appropriate" to address a violation of the Election Rules, including, but not limited to, "requiring the Union to mail or otherwise distribute, at its own expense, candidate campaign materials." Thus, it is clear that the Election Officer has the authority to compel the distribution of the New Eagle Slate's literature. The Local's concern with spending Union money or using Union goods to "support" a candidate is misplaced. The Local is not supporting any candidate, but merely curing its violation of the Election Rules. The language -- "This is an official Local Union notice . . ." -- is necessary to overcome the hurdle that may be created by

employers who would seek to remove literature from the Local Union's bulletin boards if it is not an "official" notice of the Local. Moreover, the notice contains a clear disclaimer that the campaign literature is "not endorsed by the Local Union."

Lastly, the remedy is not punitive, but rather properly addresses the damage suffered by the complainants here. Ballots for this Local were mailed February 11, 1991. Due to Local 710's dilatory conduct, the complainants lost valuable time in reaching out to the Local's members. The remedy imposed merely compensates the complainants for their lost opportunities to campaign.

Accordingly, the Election Officer's ruling in this matter is affirmed in all respects.³


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

Dated: February 19, 1991.

³ Local 710 also objected to the protests as untimely. The Election Rules provide that such protests "MUST be filed within forty-eight (48) hours or such protests shall be waived." Election Rules, Article XI, Section 1.a.(1) (Emphasis in original). Mr. Golubovic's protest is dated January 26, 1991, and Mr. McSweeney's is dated January 20, 1991. Apparently, the Local suggests that Mr. Golubovic's and Mr. McSweeney's protests needed to be filed 48 hours after the five-day period allotted to inspect collective bargaining agreements first expired. The Local overlooks the fact, however, that its delay in complying with the complainants' request was a violation of the Election Rules that continued to February 1, 1991, the date the worksite information was eventually supplied. Thus, I find the protests filed here to be timely.