



OFFICE OF THE ELECTION OFFICER
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Michael H. Holland
Election Officer

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February 7, 1991

VIA UPS OVERNIGHT

Dallas D. Erickson
4479 Store Lane
Stevensville, MT 59870

Jim Roberts,
President
IBT Local Union 2
3345 Harrison Avenue
Butte, MT 59702

Re: Election Office Case No. P-422-LU2-RMT

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, Dallas A. Erickson, is a candidate for delegate to the 1991 IBT International Convention. Mr. Erickson's protest has two parts. First, he alleges that he had not, as of January 30, 1991, received a work-site list of members from the Local, despite a promise from the Local that he would receive it earlier. Second, he alleges that the campaign literature mailed by the opposing slate composed of union officers did not bear a disclaimer, as required by the *Rules*.

With respect to the first issue, it appears that Mr. Erickson received a work-site list two days after he filed his protest. The ballots for this mail election were mailed on February 2, 1991 and are due back on February 22, 1991. Part of the delay in providing the work-site list was due to the fact that this Local had recently merged with another Local, which meant that the list was being created for the first time. Given all of the above facts, it would not effectuate the purposes of the *Rules* to find a violation based upon the failure to provide the list as soon as promised.

The campaign mailing which is the subject of this protest was mailed in envelopes which bore the return address of the Local Union. The mailing was done through utilization of the Local Union not-for-profit bulk rate permit. In such a situation, the *Rules* provide that such literature "shall clearly state that it is campaign literature, the contents of which are not endorsed by the Union." Article VIII, Section 6(a)(3) of the *Rules*. The literature in this case did not have such a disclaimer either on its outside face or in its text. To this extent, therefore, the protest is **GRANTED**.

Dallas D. Erickson
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The candidate slate which sent the violative campaign mailing has indicated that it intends to send another mailing during this delegate campaign period. The slate has notified the Election Officer that it would be willing to include in such a mailing an appropriate statement with respect to the prior mailing.

Thus, to remedy the violation found above, the slate is directed to include on the literature it sends in such mailing the following statement, printed in at least in 10 point type, boxed and displayed prominently: "Both this literature and the literature you previously received supporting these candidates is campaign literature, the contents of which are not endorsed by the Local Union."

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/ads

cc Frederick B Lacey, Independent Administrator
Bruce Boyens, Regional Coordinator