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March 21, 1991

VIA UPS OVERNIGHT

Joseph Purcell
President
IBT Local Union 177
282 Hillside Avenue
Hillside, New Jersey 07205

Mario F. Perrucci
Secretary-Treasurer
282 Hillside Avenue
Hillside, New Jersey 07205

Re: Election Office Case No. P-557-LU177-NJE

Gentlemen

A pre-election protest has been 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*") In his protest, Joseph Purcell alleges that the *Rules* have been violated by Mario Perrucci and the Ron Carey slate in that (1) Local 177 cars were used to travel to various locations to campaign, (2) campaign literature was transported in cars owned by Local 177 business agents, (3) Perrucci and his slate members campaigned while being paid by Local Union 177, (4) Perrucci directed IBT members Barry Kahn and James Householder to distribute campaign literature on Union time, (5) Perrucci campaigned in the Gould Avenue building in Newark, New Jersey while on Union time, (6) IBT member Howard Kahn lied about seeing Joe Purcell in the Gould Avenue building handing out leaflets, (7) IBT member Mike Currucio lied about Joe Purcell offering Currucio money to hand out leaflets, and (8) Mario Perrucci distributed delinquency notices to Local Union 177 members before the January dues check-off was posted in order to mislead members into believing they could not vote

The protest was investigated by Adjunct Coordinator Larry Turner. The investigation discloses the following: Joe Purcell is the President of Local 177. Mario Perrucci is the Secretary-Treasurer and principal officer of the Local. The two officers opposed each other in the delegate election campaign. The Local 177 election was conducted on February 25, 1991 and Purcell lost.¹ Many of the allegations in this

¹This protest was filed on the last business day before the election. The protest does not claim that the alleged violations affect the outcome of the election, nonetheless, based on the terms of this determination, the Election Officer finds that the conduct complained of in the protest did not affect the outcome of the election.

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protest are identical to allegations raised by Perrucci in a protest filed against Purcell. The Election Officer issued a decision in that protest on March 13, 1991. See P-646-LU177-NJE

Purcell alleges that the officer candidates on the Carey Slate used Union-owned cars for campaigning. The Local 177 bylaws provide in relevant part that

for the convenience of the Union and as a partial compensation for additional responsibilities, officers shall be permitted use of such automobiles on a round the clock continuous basis

All Local 177 officers use the automobiles leased by the Local for personal matters, including vacations. Since the Local permits the use of the automobiles by officers for all personal business, it is not a violation of the *Rules* for the car to be used for campaign purposes, including transporting literature. This aspect of the protest is **DENIED**

Purcell also alleges that Perrucci campaigned while being paid by the Local. However, Article III, Section 10 of the *Rules* permits campaigning if the campaign activity is incidental to Union business. The investigation shows that Perrucci campaigned prior to the start of work shifts or incidental to other Union business to be conducted at a particular site. Thus, his campaign activity was permissible under the *Rules*. This aspect of the protest is **DENIED**

There was no evidence presented or otherwise adduced during the investigation to support the claim that IBT members Barry Kahn and James Householder campaigned during time that was paid for by the Union. Therefore, this aspect of the protest is **DENIED**

Purcell alleges that Perrucci violated the *Rules* by his campaign activity at a work-site for which Purcell is primarily responsible, i.e., the Gould Avenue building. However, the *Rules* do not prohibit incumbent officers from engaging in campaign activities at job sites that are not their primary service responsibility. There is no evidence to show that Perrucci's activity at the Gould facility was otherwise improper under the *Rules*. This aspect of the protest is **DENIED**

Purcell alleges that Perrucci had Howard Kahn "lie about seeing Purcell" in the Gould Avenue facility distributing campaign materials. On the contrary, the protest filed by Perrucci against Purcell (P-646-LU177-NJE) clearly alleges that members other than Purcell were distributing campaign materials in the work areas. This aspect of the protest is **DENIED**

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Purcell alleges further that Perrucci encouraged IBT member Mike Curricio to lie to the Election Officer about Perrucci offering Curricio money to distribute campaign materials. However, there was no evidence presented or adduced during that investigation to show that Perrucci influenced, persuaded, or instructed Curricio to make any statements against Purcell. The *Rules* have not been violated, and this aspect of the protest is **DENIED**.

Purcell's final allegation is that Perrucci distributed notices of delinquent dues payments to members of Local 177. The Election Officer previously decided this issue in P-540-LU177-NJE. The clear purpose of the notices of delinquent dues payments was to encourage Local 177 members to pay their dues so that they would be eligible to vote. The *Rules* have not been violated. This aspect of the protest 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, 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
Edward T. Ellis, Regional Coordinator