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March 12, 1991

VIA UPS OVERNIGHT

Ralph Evenhouse
6811 W 141st Street
Cedar Lake, IN 46303

Daniel Ligurotis
Secretary-Treasurer
IBT Local Union 705
300 S Ashland Ave
Chicago, IL 60607

Re: Election Office Case No. P-594-LU705-CHI

Gentlemen

Ralph Evenhouse filed this pre-election protest pursuant to Article XI of the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("*Rules*") The protest alleges three separate violations of the *Rules*: (a) Local 705 failed to provide timely information of job site locations and acted to delay the release of information and in so doing interfered with the election process, (b) Local 705 failed to act in a professional manner by not providing complete or accurate information about work-site locations as required by the *Rules*, (c) Local 705 failed to prohibit the distribution of campaign material which material, it is alleged, was designed to mislead the general voting membership and to create a false picture of the candidacy of certain candidates It is further alleged that this campaign material was distributed by Union officers and employees using Union funds

Allegations (a) and (b) were previously decided by the Election Officer in his March 1, 1991 decision in Election Officer Case Nos P-514, P-524, P-568, P-580, and P-591-LU705-CHI. That decision and the remedy imposed in that decision decided, and remedied, the first two parts of this protest

The remaining portion of the protest concerns the campaign literature distributed in support of the delegate and alternate delegate candidates on the Ligurotis Team Slate The fact that the campaign literature allegedly contains false, irrelevant or even defamatory information does not remove it from the protection of the *Rules*. National Association of Letter Carriers v Austin, 418 U S 264 (1974) (uninhibited and robust debate encouraged in labor matters, even allegedly defamatory statements permitted), Salzhandler v. Caputo, 316 F 2d 445 (2nd Cir 1963) (statements critical of Union officials, even if incorrect, protected) The policy encouraging robust political debate

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in the selection of delegates and International Officers of the IBT is reflected in the *Rules'* prohibition against censorship of campaign literature See, Article VII, § 6 (g) Thus, the distribution of the literature here at issue does not violate the *Rules*.

As to the allegation that the material above was distributed by Union elected officials and Union employees using Union funds, the protester provided no evidence, and the Election Officer's investigation did not uncover any, to support this assertion For the above reasons, this 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/mca

cc. Frederick B Lacey, Independent Administrator
Julie E Hamos, Regional Coordinator