



OFFICE OF THE ELECTION OFFICER  
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Michael H. Holland  
Election Officer

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March 22, 1991

**VIA UPS OVERNIGHT**

Artesha Crickett K'Olmos  
c/o Local 996  
615 Piikoi Street  
18th Floor  
Honolulu, Hawaii 96814

Harold De Costa  
President  
Local Union 996  
904 Kohou Street  
Suite 102  
Honolulu, Hawaii 96819

Harlan Reed  
904 Kohou Street  
Suite 102  
Honolulu, Hawaii 96819

**Re: Election Office Case No. P-610-LU996-RMT**

To Whom It May Concern

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 her protest, Artesha Crickett K'Olmos alleges that Local Union 996 has refused to accept her membership dues, thereby denying her the opportunity to vote in the upcoming delegate election She alleges further that Local 996 Business Agent Harlan Reed has coerced her and sexually harassed her because of her support for the delegate candidacy of Anthony Rutledge

The investigation discloses the following facts **In December, 1990, K'Olmos left her employment with Local Union 996** Her decision to leave her staff position coincided with the departure from Local 996 of Anthony Rutledge, who had served as a long-term Vice President of the Local Rutledge ran for President of the Local in an election that was supervised by the Department of Labor He was defeated in that election by Howard De Costa, although challenges to the election are pending and the results of the election have not yet been certified Both Rutledge and K'Olmos are currently employed by Local 5 of the Hotel Employees and Restaurant Employees Union (Local 5) K'Olmos is supporting Rutledge in his current campaign against De Costa for delegate to the 1991 IBT International Convention

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The Local takes the position that K'Olmos is not working at the craft because she left Local Union 996 to become permanently employed by Local 5. Therefore she has no membership rights. Based on this analysis, Local 996 has refused to accept dues from K'Olmos.

The IBT Constitution provides in relevant parts that when a member becomes unemployed in the jurisdiction of the Local Union, he shall be issued an honorable withdrawal card upon his request. If no request is made, an honorable withdrawal card must be issued six (6) months after the month in which the member first becomes unemployed, if he is still unemployed at that time. Article VIII, Section 6(a). The Constitution further states that "Any member of a Local Union refusing full-time employment when offered or leaving employment within the jurisdiction or going to work at another craft or occupation outside its jurisdiction on other than a temporary basis or part-time basis shall be given an honorable discharge card and cannot remain a member." Article XVIII, Section 7(c).

The investigation discloses that although K'Olmos left her job with Local 996 after the defeat of her political ally Rutledge, she has continued to search for employment within the jurisdiction of Local 996, and currently has applications pending for such employment. Furthermore, should the internal union election in Local 996 be rerun by the Labor Department and should Rutledge be installed as president of the Local, K'Olmos would return to her staff position with Local 996. She claims that her position at Local 5 is temporary work pending her obtaining a regular position within the jurisdiction of Local 996.

Based on his investigation, the Election Officer concludes that K'Olmos' employment with Local 5 is temporary. She has applications pending with other employers who are under the jurisdiction of local 996, she may well find other employment in the jurisdiction of Local 996 within six months from the time she left her staff position with the Local. Therefore, The Election Officer concludes that K'Olmos is eligible to retain membership in Local 996 and vote in the upcoming delegate election, provided that she tenders all dues she owes to Local 996 prior to the March 30, 1991 election date. This aspect of the protest is GRANTED.

K'Olmos claims further that she has been threatened and sexually harassed by Local 996 Business Agent Harlan Reed because of her IBT election related activities. The investigation shows that while K'Olmos and others were campaigning outside a bus driver meeting on Tuesday, February 26, 1991, Harlan Reed approached K'Olmos and accused her of having sex with another driver to induce him to cease supporting Harold De Costa. Reed then proceeded to use foul and vulgar language suggesting that K'Olmos have sexual relations with him. The investigation shows that following this incident, K'Olmos and others continued their campaign activity. Subsequently K'Olmos filed charges with the Honolulu police, the National Labor Relations Board, and also applied for a court restraining order against Reed. She also filed this protest.

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The Election Officer concludes that Reed's conduct on February 28, 1991 is particularly offensive and inappropriate. The Election Officer further notes that the instant delegate and alternate delegate campaign is set against the backdrop of a very hostile, emotionally charged internal Union campaign for Local Union office. Tempers have flared and inappropriate behavior has continued into the delegate campaign. All parties are admonished to comply with the *Rules* and to refrain from any conduct that tends to interfere with the campaign rights of IBT members.

To encourage proper campaigning, the Election Officer directs both Harold De Costa and Anthony Rutledge to post the attached notice in their respective Local Union buildings.

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  
Bruce Boyens, Regional Coordinator

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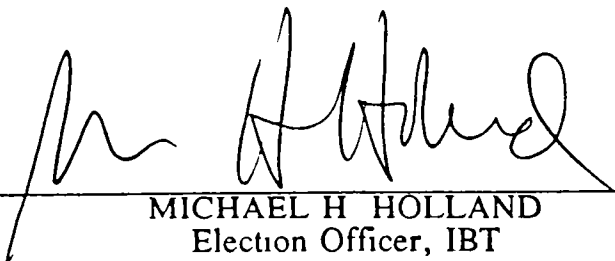
**NOTICE TO TEAMSTER MEMBERS**  
**FROM MICHAEL H. HOLLAND, ELECTION OFFICER, IBT**

You have the right to participate in campaign activities on behalf of candidates for delegate and alternate delegate to the 1991 IBT Convention

You have the right to participate in campaign activities on behalf of candidates for International Office in the IBT

No one, no company official, union officer, business agent, steward, or member can intimidate, harass, or threaten you for engaging in such campaign activity

Protests regarding bulletin board postings are to be filed with the Election Officer at the above address. Copies of the *Rules* regarding campaigning and other election activities may be obtained from the Election Officer by calling the toll-free telephone number listed above



MICHAEL H HOLLAND  
Election Officer, IBT

*This is an official notice and must remain posted for thirty consecutive days from the day of posting, and must not be altered, defaced, or covered by any other material*

IN RE

ARTESHA CRICKETT K'OLMOS,

and

HAROLD DE COSTA,  
IBT LOCAL UNION NO. 996,

and

HARLAND REED,

91 - Elec App. - 119 (SA)

DECISION OF THE  
INDEPENDENT ADMINISTRATOR

This matter arises out of an appeal from two decisions of the Election Officer, both dated March 22, 1991. The first decision was issued in Case No. P-610-LU996-RMT ("P-610") and the second was issued in Case No. P-669-LU996-RMT ("P-669"). A hearing was held before me on April 1, 1991, at which John Sullivan, on behalf of the Election Officer was heard. Pauline Thompson audited the hearing on behalf of Local 996. In addition, I received written submissions from the Local and Ms K'Olmos. Still further, in Mr. Reed's initial request for a hearing in Case No. P-669 dated March 26, 1991, he set forth his position. Statements of witnesses were also "faxed" to my office by Harold DeCosta, President of Local 996.

The first protest (P-610) concerns Ms K'Olmos' good-standing status. At issue is Ms K'Olmos' right to participate in the delegate and International Officer elections to be conducted at Local 996. Ms. K'Olmos is not a candidate.

Pursuant to the IBT Constitution and the Rules for the IBT International Union Delegate and Officer Election (the "Election Rules"), a member's good standing can be interrupted by periods of unemployment at the "craft." Article XVIII, Section 7(c) of the IBT Constitution provides as follows:

Any member of a Local Union refusing full-time employment when offered or leaving employment within the jurisdiction or going to work at another craft or occupation outside its jurisdiction on other than a temporary or part-time basis shall be given an honorable withdrawal card and cannot remain a member.

Ms. K'Olmos held a staff position at Local Union 996 for approximately two months in 1990 and was a member of the Local during that short period. Ms. K'Olmos voluntarily left her employment in December of 1990. In her March 31, 1991, submission to me, Ms. K'Olmos explains that she left her employment because she "became disenchanted with Mr. DeCosta's ability to lead, and felt [she] could not morally continue to work under his leadership." Apparently, Ms. K'Olmos' decision to quit her job is rooted in a hotly contested race for Local Union President between Anthony Rutledge, the former President of the Local, and Mr. DeCosta, the current President. That election took place in October 1990. The U.S. Department of Labor is currently investigating allegations of election misconduct arising out of the October election.

Ms. K'Olmos is currently employed by a non-IBT Local. She continues to search for employment within the jurisdiction of Local 996 and currently has applications pending for such employment.

Furthermore, the Election Officer's investigation reveals that Ms. K'Olmos would be willing to return to her former position if Mr DeCosta was no longer President of Local 996. In short, Ms K'Olmos claims that her position with the non-IBT Local is temporary pending her obtaining a regular position within the jurisdiction of Local 996.

The Election Officer found Ms. K'Olmos to be in good standing based upon two factors. First, it was determined that Ms. K'Olmos' unemployment is temporary. Second, it was found that her unemployment has lasted less than six months and, thus, she cannot be issued an honorable withdrawal card pursuant to Article XVIII, Section 6(a) of the IBT Constitution.<sup>1</sup>

Article XVIII, Section 6(c) of the IBT Constitution clearly provides, however, that a member who "refus[es] full-time employment when offered or leave[s] employment within the jurisdiction" of the Local "shall be given an honorable withdrawal card and can not remain a member." (Emphasis supplied.) In short, the IBT Constitution does not protect those who quit their jobs regardless of whether or not they work outside of the jurisdiction of the Local on a temporary basis. Moreover, Ms. K'Olmos is

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<sup>1</sup> The pertinent provision of Article XVIII, Section 6(a) provides as follows

When a member becomes unemployed in the jurisdiction of the Local Union, he shall be issued an honorable withdrawal card upon his request. If no such request is made, an honorable withdrawal card must be issued six (6) months after the month in which the member first becomes unemployed, if he is still unemployed at that time.



refusing work with the Local based upon the presence of Mr DeCosta as President.

In the past, the Independent Administrator has affirmed the Election Officer's protection of the good standing status of members who were working outside of the craft and outside the jurisdiction of the Local on a temporary or part-time basis. In each of those cases, however, the member was either fired, laid off, or not referred any work by the Local. See In Re Camenson, 91 - Elec. App - 114 (SA) (April 1, 1991); In Re Stone, Decision of the Independent Administrator on Request For Reconsideration, 91 - Elec App. - 38 (SA) (February 1, 1991); and In Re Local 200 and Fugger, 90 - Elec App. - 25 (SA) (December 27, 1990) Here, however, the Local could properly issue Ms. K'Olmos a withdrawal card pursuant to Article XVIII, Section 6(c) given that she has "refused full-time employment" and has left "employment under the jurisdiction of the Local." In fact, that section would seem to compel the Local to issue a withdrawal card. The Local, however, has not issued Ms. K'Olmos such a card. Thus, the Local cannot now be heard to complain that Ms. K'Olmos is not in good standing because of her employment elsewhere.

Accordingly, the Election Officer's ruling regarding Ms K'Olmos' good standing is affirmed for the reasons expressed herein

The second portion of Ms. K'Olmos' protest (In Case No P-610) regards allegations that she was threatened and sexually harassed

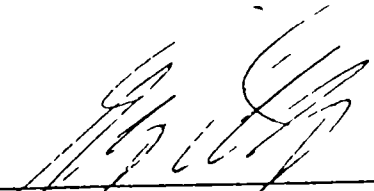
by Local 996's business agent, Mr. Reed. Ms. K'Olmos alleges that Mr. Reed's actions were prompted by her election related activities. In fact, following a particularly troublesome incident, Ms. K'Olmos filed charges with the Honolulu Police and the National Labor Relations Board, and applied for a court restraining order against Mr. Reed. During the incident in question, Mr. Reed approached Ms. K'Olmos while she was engaged in campaign activity and accused her of having sex with another driver to induce him into supporting Mr. DeCosta. Mr. Reed also used foul and vulgar language suggesting that Ms. K'Olmos had sexual relations with him.

The Election Officer concluded in his Summary that "there was no evidence to establish that Mr. Reed engaged in the conduct complained of with the acquiescence or even the knowledge of the officers of the Local." The Election Officer in his Summary, however, expressed particular concern with "the nature of Mr. Reed's behavior" and "the hostile character of the campaign being waged by the long-standing rivals within Local 996." To force compliance with the Election Rules, the Election Officer directed that the heads of both factions -- Harold DeCosta and Anthony Rutledge -- post a notice affirming the rights of IBT members to participate in campaign activities without interference or intimidation.

I affirm the Election Officer's ruling in this regard

Lastly, we must address the cross-protest filed by Mr Reed in Case No. P-669. Mr. Reed alleged that Ms K'Olmos attempted to engage him in hostilities and called the police to embarrass him while he was campaigning on March 14, 1991. A review of the Election Officer's decision and his accompanying Summary reveals that Mr. Reed's protest was motivated more by political concerns rather than concerns for a fair, honest and open delegate and International Officer election. Simply stated, the Election Rules were not implicated at all in Mr. Reed's protest.

Accordingly, the Election Officer's denial of Mr Reed's protest is affirmed.



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

Dated: April 4, 1991