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March 18, 1991

VIA UPS OVERNIGHT

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Dennis A Shaw
Secretary-Treasurer
IBT Local Union 186
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Suite B
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Sara Zuniga
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Oxnard, CA 93030

David Mora
4000 Monroe St
Ventura, CA 93003

Re: Election Office Case No. P-617-LU186-CLA

Gentlemen

A pre-election protest was filed pursuant to Article XI of the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("*Rules*") The protest was filed by Ms Sara Zuniga, Mr Gil Trejo and Mr David Mora, all of whom are members of Local 186 in Ventura, California The protest alleges two separate claims The first allegation alleges that the employer worksite list provided to the candidates in accordance with Article VIII, § 1 of the *Rules* was incomplete and inaccurate The second claim alleges that Union officials were distributing campaign literature on Union time in violation of Article VIII, § 10 (b) of the *Rules* Each of the claims will be reviewed below in separately numbered sections

I. Incomplete and Inaccurate Worksite List.

The complainants allege that the worksite list provided to them by Dennis Shaw, the Local Union's Secretary-Treasurer, does not comply with the requirements of Article VIII, § 1 of the *Rules* because it does not contain the local addresses of all employers employing members of Local Union 186 and further that one employer listed on the list no longer employs members of Local 186

The investigation conducted by the Election Office revealed the following facts On February 25, 1991, Ms Zuniga, Mr Mora and Mr Trejo sent a letter to Secretary-

Treasurer Dennis Shaw requesting the right to inspect and make notes from all collective bargaining agreements covering any member of the Local Union¹. Pursuant to the candidates' request, Mr Shaw notified Ms Zuniga on February 27, 1991 that she could inspect Local 186's collective bargaining agreements at 10 00 a m on Friday, March 1. On Friday, March 1, at approximately 10 00 a m , the three candidates went to the Local Union hall for the purposes of inspecting and making notes from the collective bargaining agreements. Many of the collective bargaining agreements provided by the Local did not contain any employer addresses. When the candidates objected, the Local Union officials contacted their attorney, who informed the Local that it was not obligated to provide local addresses of employers. The Local also offered to give the candidates a copy of the employer roster maintained on the TITAN system. The candidates rejected that suggestion because they said the employer roster listed only Post Office boxes for some employers. The candidates filed this protest over the Local's initial refusal to provide worksite lists.

Pursuant to further communications between Local Union officials, counsel, the Election Office Regional Coordinator Geraldine Leshin and the complainants, the Local agreed to provide the candidates with a copy of the worksite list for those employers employing members of Local 186. On Friday, March 8, 1991, Mr David Mora went to the Local Union hall for the purposes of obtaining a copy of the worksite list. At that time, Ms Junior Ramirez, Recording Secretary, Office Manager, and delegate candidate, gave Mr Mora a copy of the employer list which was produced from TITAN. The TITAN list consisted of billing addresses which the Local used to bill employers for dues checkoff deductions. Some of the employer addresses listed on the employer roster contained Post Office boxes and no street addresses.

Pursuant to the candidates' request from the February 28, 1991 meeting, Ms Ramirez had also prepared a second list consisting of the complete addresses of all employers which appeared on the TITAN roster with the Post Office boxes only. On the second list, Ms Ramirez listed street addresses for all those employers whose address on the initial printout contained only Post Office box numbers. Ms Ramirez was able to obtain the street addresses by personally calling all the employers listed with Post Office box addresses and getting their street addresses.

Mr Mora, Ms Zuniga and Mr Trejo continue to claim that the employer list provided by the Local is incomplete and inaccurate because one of the employers listed

¹The written request stated that, in the event that the Local intended to satisfy the request by providing a list of the employers and their worksites, that such list should contain "not only their employers and how many are members employed by that company, their principal sites of business, but all sites where Local 186 members work, for example, the sites of all United Parcel Service centers and hubs in Local 186's jurisdiction."

on the worksite list, Langendorf Bakeries, no longer employs Local 186 members² Mr Mora also maintains that the list is incomplete because the employer TITAN roster lists approximately 95 employers and the manual list created by Junior Ramirez only contains about 35 employers Mr Mora also asserts that six employers have no address listed on either list

Mr Mora's allegations with respect to the discrepancy in numbers between the two lists indicate that he has not thoroughly reviewed the lists provided by the Local Examination of the two lists shows that Ms Ramirez's list contains street addresses for all the employers listed with Post Office box numbers on the employer roster The list does not, however, repeat the names and addresses of those employers whose street addresses appear on the TITAN roster Thus, the second list is obviously and appropriately shorter than the TITAN roster

Ms Ramirez was interviewed pursuant to the investigation conducted by the Election Officer In the course of the interview, Ms Ramirez stated that there were a few employers where she had no local addresses, due to the fact that those employers only employed one or two members and those members did not work at any worksite within the Local's geographical jurisdiction

Article VIII, § 1 (a) - (c) provides that each delegate candidate has a right to inspect and make notes from all collective bargaining agreements covering any members of the Local Union Article VIII further provides that "the right to inspect and make notes from collective bargaining agreements may be satisfied by the Local Union providing, within the five-day period set forth above, the list of all the sites with addresses where any and all of its members work Such worksite list shall be arranged by employer name " *Rules*, Article VIII, § 1 (a) - (c) p 46

A complete review of the facts indicates that Local 186 has substantially complied with the requirements of Article VIII of the *Rules* Moreover, there is no obligation under the *Rules* that the Local provide the number of members working at all the various worksites listed in the worksite list provided to the candidates, particularly where, as here, the Local does not otherwise have that information available There is no evidence to support the complainants' allegations that the Local had maintained an employer worksite list prior to the request made by the candidates under Article VIII of the *Rules* My decision holding that the Local has substantially complied with the candidates' request is also based on the fact that Ms Ramirez, the Recording Secretary, exercised due diligence in obtaining the complete addresses from the various employers Since Local 186 has substantially complied with the complainants' request under Article VIII of the *Rules*, the above described protest is DENIED

²The Local avers that Langendorf Bakeries has merged with some small bakeries in the area and still employs Local 186 members

II. Allegations of Campaigning on Union Time by Two Local 186 Business Agents.

The complainants also allege that Local 186 Business Agents, Mr Ben Guerrero and Mr Lyle Barnett campaigned at the Weber Bread Company on March 2, 1991 and February 28, 1991 on Union time in violation of Article VIII, § 10 of the *Rules*. The complainants allege that Ben Guerrero and Lyle Barnett visited the Weber Bakery facility on Saturday, March 2 at approximately 4 50 a m and distributed slate cards in support of Dennis Shaw's delegate campaign to Local 186 members. Both Mr Guerrero and Mr Barnett deny visiting the Weber Bread facility on that date. Mr Guerrero states that he was out of town on that day and therefore could not have been at the facility. Mr Barnett states that he did not perform any Union work or any campaign work on Saturday, March 2, 1991. The investigation did not disclose that either Guerrero or Barnett performed any tasks associated with their responsibilities as Business Agents on March 2, 1991. The investigation further showed that generally Saturday constitutes a non-work day for both Messrs Guerrero and Barnett.

The complainants also allege that on February 28, 1991, Mr Barnett and Mr Guerrero visited the Weber Bread Company to distribute slate cards in support of Dennis Shaw's candidacy for delegate in Local 186's upcoming delegate election. The complainants state that Mr Guerrero and Mr Barnett distributed cards at approximately 12 35 p m and at approximately 4 50 a m on the 28th of February.

During the course of the investigation, both Mr Guerrero and Mr Barnett were interviewed by the Election Officer Representative William Demers, and stated that they each requested vacation leave for Thursday, February 28 for the purposes of campaigning in support of Mr Shaw's candidacy. Ms Ramirez, Recording Secretary and Office Manager for Local 186, confirms that Guerrero and Barnett took a vacation day on February 28, 1991 and submitted pay stubs and time sheets to support her statements. Mr Guerrero further states that even if he had not exercised his vacation benefits on that date, his conduct does not violate the *Rules* because he does not begin work until approximately 7 00 a m and that the 12 30 p m time period would have been during his normally scheduled lunch break. Mr Barnett denies that he visited the Weber facility during his lunch hour on the 28th of February and instead states that he only distributed slate literature cards during the earlier morning at approximately 5 a m.

Article VIII, § 10 (b) of the *Rules* provides that

All Union officers and employees, if members, retain the right to participate in campaign activities, including the right to run for office, to openly support or oppose any candidate, to aid or campaign any candidate, and to make personal campaign contributions. However, such campaigning must not involve the expenditure of Union funds. Accordingly, members, officers and employees of the Union may not

Gil Trejo
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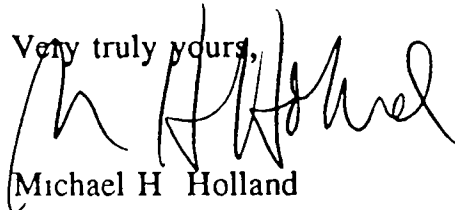
campaign on time that is paid for by the Union Campaigning incidental to regular Union business is not, however, violative of this section Further, campaigning during paid vacation, paid lunch hours or breaks, or similar paid time off is also not a violation of this section

The facts demonstrate that both Mr Guerrero and Mr Barnett took vacation time on February 28, 1991 Thus, they were entitled to campaign on that day and their conduct did not violate the *Rules*

Although there is a factual dispute as to whether Mr Barnett and Mr Guerrero were at the Weber Bread Company on Saturday, March 2, 1991, it is not necessary to resolve the factual dispute to resolve this protest Even if both Business Agents were at the facility on the date in question, neither was on Union paid time Neither generally worked for the Union on Saturday, Saturday was their day off Thus, even assuming that both men were campaigning at Weber Bread on Saturday, March 2, such conduct would not have violated the *Rules* Since the evidence does not establish that either Mr Guerrero or Mr Barnett campaigned on Union time in violation of the *Rules*, the above described 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
Geraldine L Leshin, Regional Coordinator