



OFFICE OF THE ELECTION OFFICER
% INTERNATIONAL BROTHERHOOD OF TEAMSTERS
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Michael H Holland
Election Officer

Chicago Office
% Cornfield and Feldman
343 South Dearborn Street
Chicago, IL 60604
(312) 922 2800

March 19, 1991

VIA UPS OVERNIGHT

Robert Abiva, Jr
98-124 Kihale Street
Alea, Hawaii 96701

Sylvia J Mano
94-929 Lumiloki Street
Waipahu, Hawaii 96797

Harold De Costa
Secretary-Treasurer
Teamsters Local 996
615 Pukoi Street
18th Floor
Honolulu, Hawaii 96814

Caroldean L Kahue
41-1710 Kalamanaole
Waimanalo, Hawaii 96795

Re: Election Office Case No. P-627-LU996-RMT

Gentlemen

A pre-election protest was 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 Robert Abiva, Jr, a candidate for delegate on the Chambrella-Rutledge slate, alleges that the *Rules* have been violated because IBT Local 996 Business Agents Caroldean Kahue and Sylvia Mano used a camera owned by the Union to photograph and survey campaign activities by Abiva He also alleges that Kahue and Mano engaged in the alleged surveillance during time paid for by the Union

The protest was investigated by Adjunct Coordinator Tom di Grazia The investigation discloses the following On February 25, 1991 at approximately 2 10 p m, IBT Business Agents Caroldean Kahue and Sylvia Mano drove past Queens Medical Center where Abiva was holding a sign supporting the Chambrella-Rutledge Slate Mano was driving the car and Kahue was a passenger The investigation shows that Mano and Kahue were on their lunch break at the time They then, while still on their lunch-break, retrieved a camera that belonged to Kahue from an employee at the Medical Center After collecting the camera, the two left the premises Kahue then photographed Abiva and his supporters, according to her, because she believed they were engaged in impermissible campaign activity

The *Rules* do prohibit campaign activity on time paid for by a Union or an

Robert Abiva, Jr
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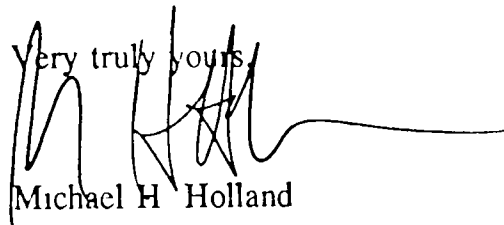
employer Engaging in activities whether in support or against any candidates position is governed by the *Rules* However, the *Rules* permit such activity during paid vacation, paid lunch hours or breaks, or similar paid time off *Rules*, Article VII, Section 10(b)

The *Rules* also prohibit the use of Union funds, facilities, equipment, stationery, etc to assist in campaigning unless the candidate reimburses the Union for such costs and such goods and services are equally available to all candidates *Rules*, Article VII, Section 10(c)

Mano and Kahue were on a paid lunch-break during the time they obtained the camera and took the photograph The camera used by Kahue belonged to her, not the Union The *Rules* prohibiting campaign activities on Union paid time or by use of Union equipment have not been violated

The Election Officer notes, however, that taking or obtaining photographs or videos of campaign activity by IBT members is not encouraged by the *Rules* Further, the act of taking photographs tends to create the impression of surveillance whether intended to or not Surveillance has a chilling effect on members' willingness to engage in campaign activities in which they have a right to engage under Article VIII, Section 10 of the *Rules* Thus, engaging in surveillance or creating the appearance of surveillance of members' campaign activities violates the *Rules* The Election Officer reminds all parties in this election that campaign conduct that impedes the process of honest, fair, and free elections, including surveillance, creating the appearance of surveillance, or engaging in other acts which chill or may chill members' Article VIII, Section 10 rights will not be tolerated

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

Robert Abiva, Jr
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cc Frederick B Lacey, Independent Administrator
Bruce Boyens, Regional Coordinator

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March 11, 1991

VIA UPS OVERNIGHT

Joseph Golden
161 Deerfield La
Aberdeen, NJ 07747

Gene Giacumbo
President
IBT Local Union 843
446 Morris Ave
Springfield, NJ 07081

Re: Election Office Case No. P-628-LU843-NJE

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"). In his protest, Joseph Golden, asserts that the Gene Giacumbo, President of Teamsters Local 843, violated various provisions of Local 843's Bylaws and the IBT International Constitution and breached his fiduciary duties to Local 843's membership by signing checks drawn on the Local treasury without obtaining the required second signature. Mr Golden states that he has notified the IBT General Secretary-Treasurer Weldon Mathis about these alleged violations. He indicates that Mr Giacumbo has been "reprimanded" for this alleged breach of his obligations under the IBT Constitution. Mr Golden asserts that additional intra-Union charges are pending against Mr Giacumbo. Mr Golden requests that Mr Giacumbo be declared ineligible to run as a delegate in Local 843 because of the alleged violations.

The jurisdiction of the Election Officer does not extend to determinations as to whether or not members or officers of the IBT have violated their fiduciary responsibilities to the Union. Pursuant to the Consent Order of March 14, 1989, the bringing of charges based upon alleged violations of a member's or officer's fiduciary duty is exclusively within the jurisdiction of the Investigation Officer, Charles Carberry, determinations of whether violations of fiduciary obligations have occurred and the appropriate penalty for such violations is within the exclusive jurisdiction of the Independent Administrator, Frederick B Lacey. Therefore, the Election Officer does not have jurisdiction to disqualify Mr Giacumbo from running for delegate prior to Mr Carberry's investigation of the matter, and the Independent Administrator's final decision, and if appropriate, imposition of penalties in the matter.

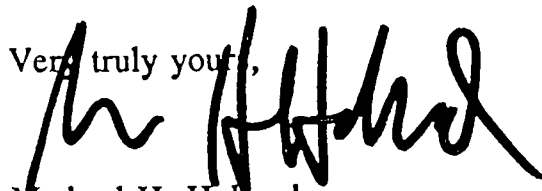
Joseph Golden
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Similarly, the jurisdiction of the Election Officer does not extend to determine actions of whether or not members or officers of the IBT have violated their obligations under the IBT Constitution or Local Union by-laws¹. The bringing and determination of such charges is pursuant to the Trial and Appeal provisions of Article XIX of the IBT Constitution subject to review, pursuant to the Consent Order of the Independent Administrator. Therefore the Election Officer does not have jurisdiction to disqualify Mr. Giacumbo from running for delegate on the grounds alleged in the protest, prior to the imposition of penalties under the trial and appeal procedures of the IBT Constitution.

Accordingly, 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
Charles Carberry, Investigations Officer
Edward T. Ellis, Regional Coordinator
Weldon Mathis, IBT General Secretary-Treasurer

¹While the Election Officer has jurisdiction with respect to matter subject to internal Union charges which impinge upon the *Rules* or the election, e.g. an allegation that internal Union charges are based upon candidate status or campaign activity, no such allegations are made in this protest.