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VIA UPS OVERNIGHT

Cecilia Tagliaferri
17 Oswego Ave
Long Beach, NY 11561

William F. Genoese
Secretary-Treasurer
IBT Local Union 732
15 East 26th Street
Suite 1508
New York, NY 10010

Re: Election Office Case No. P-631-LU732-NYC

Gentlemen

A pre-election protest was filed in accordance with Article XI of the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("*Rules*") The protest was filed by Cecilia Tagliaferri, member of Local 732 and candidate in Local 732's upcoming delegate election In her protest, Ms Tagliaferri alleges that William Genoese, Secretary-Treasurer of IBT Local 732 and other members of the "Bill Genoese Slate", committed numerous campaign violations of Article VIII of the *Rules*

Specifically, Ms Tagliaferri alleges that Mr Genoese used a Union-financed publication to support his candidacy and that various shop stewards supporting Mr Genoese's candidacy campaigned on company time in violation of Article VIII, § 7 of the *Rules* Ms Tagliaferri also alleges that various shop stewards intimidated members in violation of their political rights under Article VIII of the *Rules* Finally, Ms Tagliaferri alleges that officers of Local 732 maintained inaccurate and inadequate dues records which will cause the disenfranchisement of a significant percentage of Local 732's membership in the upcoming delegate election Each of the claims raised by Ms Tagliaferri will be reviewed in separately numbered sections below

I. Alleged Use of Union Publication to Support the "William Genoese Slate".

Ms Tagliaferri claims that Mr Genoese and other members of his slate used a Union publication, entitled Update, to support his slate's campaign for delegate In support of her allegations, Ms Tagliaferri claims that the February 28, 1991 issue of Update contained insignificant and unnewsworthy articles and that the purpose of

including those article was to present a very flattering view of William Genoese, the incumbent Secretary-Treasurer and the head of a slate of delegate and alternate delegate candidates Article VIII, § 7 of the *Rules* provides that no Union-financed publication or communication may be used to support or attack the candidacy of any member The *Rules* thus provide that during either a nomination or election campaign the Union newspaper or publication shall not

- (1) use a larger or more attractive of someone than had previously been used if that person is a candidate, unless there is a valid journalistic reason for it,
- (2) print uncomplimentary pictures of any candidate,
- (3) print features and accompanying photographs about insignificant or unnewsworthy events in which the accomplishments or qualities of any candidates are heralded, or
- (4) carry a substantial number of articles or pictures featuring a particular candidate, unless all candidates for the same position are given equal treatment, equal space, and equal prominence

In an Advisory on Union Publications, the Election Officer further explained the prohibition against the use of Union-financed publications to support or attack to candidacy of any person The Advisory states that the Election Officer shall consider publications of the following types of material to constitute improper support

- (1) Pictures or articles stating or indicating support of the candidacy of a particular candidate
- (2) Prominent, particularly cover, photographs of a candidate
- (3) Numerous photographs of the same candidate accompanying a single article
- (4) Numerous articles in the same edition about a particular candidate
- (5) Pictures or articles reporting on the activities of a particular candidate where the same or similar activities of other candidates for the same office(s) have not been similarly reported

Local 732 publishes Update on a periodic basis and distributes the publication to members at their worksites Previous issues have addressed such concerns as ongoing collective bargaining negotiations, ratifications of contracts, arbitrations, Local Union meetings, and scheduled demonstrations in support of various bargaining positions

Ms Tagliaferri objects to the February 27, 1991 issue of Update, entitled "Teamsters Fighting To Save Pan Am" which addresses the issue of Pan Am's pending

bankruptcy proceedings The publication advises Local 732 members that various Union representatives are participating as a member of the official creditor's committee and are meeting continuously with the company to insure input in any reorganization plan The publication also advises members that the previously negotiated 3% across the board wage increase effective on February 22, 1991 and that the additional 3% across the board increase effective in early August of 1991 will occur despite Pan Am's bankruptcy proceeding The Update further advises members that a number of topflight attorneys are actively working to protect members' interests, despite the company's financial situation

Pursuant to the investigation of this protest, the Election Officer reviewed previous and subsequent issues of the Update publication A review of the previous and subsequent Update publications establishes that the February 27, 1991 issue did not vary in subject matter or tone from previous and subsequent issues The investigation disclosed that the February 27, 1991 issue was consistent with previous publications which addressed, *inter alia*, the status of contract negotiations, strike preparations, and a company's refusal to submit contract disputes to an arbitrator Local 732 also issued a meeting notice on March 1, 1991 to all IBT members employed at Pan Am with an attached letter encouraging members to come to a meeting to find out about the Local's efforts to find buyers for Pan Am and the Union's role in trying to save and reshape the company during the bankruptcy proceedings

The Update does not contain any photographs of Mr Genoese or any other officers or members of Local 732 The Update also does not mention any actions or specific activities undertaken by Mr Genoese with respect to Pan Am or any other matter The Update does not contain any articles about Mr Genoese Finally, the issue does not refer to Mr Genoese's candidacy for delegate or even mention the fact of Local 732's upcoming delegate election

The evidence further establishes that the subject matter of the February 27, 1991 Update is newsworthy Pan Am had recently announced that it had filed for bankruptcy Local 732 members were understandably concerned about their job security and whether they would still receive the scheduled wage increases

Thus, the subject matter of the Update was newsworthy The information provided did not feature or otherwise refer to Mr Genoese or his campaign In conclusion, the evidence does not establish that the February 27, 1991 issue constituted campaigning within the meaning of Article VIII of the *Rules* Accordingly, Ms Tagliaferri's protest with respect to this issue is DENIED

II. Alleged Solicitation and Intimidation of Local 732 Members By 732 Shop Stewards on Company Time.

Ms Tagliaferri alleges that various Local 732 shop stewards have solicited support for William Genoese's slate during company time and that such solicitation constitutes intimidation within the meaning of Article VIII of the *Rules* Amy Gladstein, Election

Office Regional Coordinator, conducted an investigation of to this protest. The investigation disclosed that Mr. McNeil and Mr. Glassman, both Local 732 stewards, approached members working at Pan Am and asked members if they wished to sign a petition stating that they supported Mr. Genoese and his slate of delegates for election to the June, 1991 IBT International Convention. The evidence established that Mr. McNeil and Mr. Glassman only solicited support for William Genoese's Slate after their workshift was over. The investigation also established that the solicitation occurred in non-work areas.

The petition asked for the member's name and address and contained a section where the member could designate whether he/she wanted to personally endorse the Genoese Slate. During the course of her investigation, Amy Gladstein spoke to several members who had been approached by Mr. McNeil and Mr. Glassman. All such members interviewed stated that they did not feel intimidated nor did they consider the stewards' actions in asking them to sign the literature to be coercive.¹

Ms. Tagliaferri was not approached by any officials of Local 732. She further advised the Election Officer that she personally did not feel intimidated or coerced by the solicitation activities which were conducted by various officials and/or shop stewards of Local 732. The evidence does not establish that any members of Local 732 working for Pan Am felt intimidated or coerced by the various solicitation activities being conducted at their work place. Therefore, there is no evidence to support Ms. Tagliaferri's allegations. Accordingly, her protest concerning intimidation is DENIED.²

III. Alleged Harassment of Local 732 Members by Local 732's Inaccurately Maintained Dues Records.

Ms. Tagliaferri also claims that Mr. Genoese's actions in protesting various candidates' eligibility under Article VI of the *Rules* constituted harassment. Ms. Tagliaferri contends that Local 732 had inaccurately maintained, and knew it inaccurately maintained, dues records for a great majority of its members. Thus she claims that by filing an eligibility protest under these circumstances, Local 732 officers were seeking,

¹While some of the members interviewed stated they were working when approached to sign the petition, they refused to identify the individuals who solicited them. No other member indicated they were solicited either during their work time or while the solicitors were on work time.

²There is insufficient evidence to conclude that Local 732 members violated the prohibition against campaigning on company or Union time of Article VIII of the *Rules*. However, the Election Officer reminds all interested parties that Article VIII, § 10 of the *Rules* provides that "members, officers and employees of the Union may not campaign on time that is paid for by the Union and that members also may not campaign on company time." In the event that any additional information is submitted indicating that members actually engaged in campaigning on Union or company time, the Election Officer will reopen its investigation of this matter.

by delay, to undermine the campaign rights of various candidates in Local 732's delegate election.³ As a remedy, Ms Tagliaferri asks that the date of the election be postponed in order to compensate for the delay incurred as a result of the various eligibility protests

Local 732's delegate election, which will be conducted by mail ballot, has been rescheduled. The ballots were originally scheduled to be due on April 4, 1991. The election has been rescheduled and ballots are now due on April 30, 1991. The relief requested by Ms Tagliaferri have already been granted, albeit for different reasons. Thus, it is not necessary to resolve the issues raised in this particular claim.

Moreover, Ms Tagliaferri's allegations concerning Mr Genoese's utilization of the eligibility protest procedures under Article XI are identical to a claim previously raised by Mr Aulicino, who is a member of Ms Tagliaferri's slate. See Election Office Case No P-639-LU732-NYC. The Election Officer rejected Mr Aulicino's protest, stating that

Although the Election Officer does not intend in any way to suggest a tolerance of abuse of the election process established under the *Election Rules*, he must equally, emphatically affirm the integral place of the protest procedure in the election scheme. Because all IBT members are entitled, and indeed, encouraged to utilize the protest procedure to resolve any and all eligibility questions, the motivation behind such challenges is not generally scrutinized. If Mr Genoese -- or any other IBT member -- has doubts about the eligibility of any candidate, nominator or seconder, it is his right as a member to seek a determination from the Election Officer.

The Election Officer's decision was affirmed by the Independent Administrator, 91-Elec App -105 (SA). Accordingly, Ms Tagliaferri's claims to the extent not rendered moot by previous action of the Election Officer are DENIED.

V. Written Notification of Dues Arrearages.

Ms Tagliaferri also requests that Local 732 immediately notify all members who are in arrears that they must pay their dues prior to Local 732's election, scheduled for April 30, 1991. Ms Tagliaferri's request is based upon the findings of the Election

³On February 26, 1991, Mr Genoese filed protests regarding the nominations of nine candidates in Local 732's delegate election. On March 14, 1991, the Election Officer issued a decision in the case. The Election Officer's decision was appealed to the Independent Administrator, Judge Lacey. On March 22, 1991, the Independent Administrator issued a decision in the matter affirming Mr Holland's decision in all respects. 91-Elec App -105 (SA)

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Officer's investigation in E-250-LU732-NYC which disclosed that the dues records of over fifty-percent of the members of Local 732 reflect dues arrearages⁴

Ms Tagliaferri's protest is moot. By letter, the Election Officer recently advised the Local that all members will be eligible to vote in the delegate and alternate delegate election if (1) the member is currently employed, and pays dues through checkoff, or (2) the member is not currently employed but, since becoming unemployed, has continued to pay cash dues to the Local Union on a monthly basis.

All members of Local 732 have been advised of the foregoing. Thus, the potential problem of significant voter disenfranchisement has been remedied by the Election Officer. Accordingly, the protest has been rendered moot and is considered to be RESOLVED.

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. Hollander

MHH/mca

cc Frederick B. Lacey, Independent Administrator
Amy Gladstein, Regional Coordinator

⁴In E-250-LU732-NYC, the Election Officer noted that "the TITAN records for over fifty-percent of the members of Local 732 reflect dues arrearages, reflect that such members are not now presently in good standing status and thus would be ineligible to vote. To disenfranchise fifty percent of the membership would, of course, be antithetical to the purposes of the *Rules* and the underlying Consent Order. Such continued arrearages for such a large portion of the membership reflects the fact that Local 732 does not notify its members of dues arrearages. Given these facts, the Election Officer will further review voting eligibility requirements for Local 732 members and issue appropriate directives to insure that the membership of the Local is not disenfranchised, and is not prevented from voting in the election," at p. 3.