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March 13, 1991

VIA UPS OVERNIGHT

Mario Perrucci
Secretary-Treasurer
IBT Local Union 177
282 Hillside Avenue
Hillside, New Jersey 07205

Joseph Purcell
President
IBT Local Union 177
282 Hillside Avenue
Hillside, New Jersey 07205

Re: Election Office Case No. P-646-LU177-NJE

Gentlemen

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 his protest, Mario Perrucci, Secretary-Treasurer of Local 177 and delegate candidate on the Local 177 Ron Carey Slate, alleges that Joseph Purcell, President of Local 177 and an independent candidate for delegate violated the *Rules* by (1) campaigning on Union time, (2) using an automobile paid for by the Local to campaign and to transport campaign literature, (3) offering money to an individual to distribute Joseph Purcell's campaign literature, and (4) campaigning in work areas.

The protest was investigated by Adjunct Coordinator Larry Turner. With respect to the allegation that Purcell was campaigning on Union time, the investigation discloses the following: Purcell claims that most of his campaigning was through shop stewards and friends who distributed his campaign materials. However, he agrees that he engaged in some campaigning while on work time but that such campaigning was incidental to his regular Union duties. Perrucci claims that Purcell had no Union business at UPS sites located at Saddlebrook, Tinton Falls, the Newark Airport, Lakewood, and Parsippany when he distributed literature to members at such sites. Perrucci, however, was unable to supply any evidence supporting this claim.

The investigation, on the other hand, discloses that Purcell's campaigning was, in fact, incidental to his regular Union activities. For example, although he distributed literature prior to the start of the shift at Parsippany, he was at that site for a grievance meeting which in fact occurred, and in which he participated. Purcell's stopping at Saddlebrook and the Newark Airport was also incidental since such stops were of short

duration and did not require Purcell to materially deviate from his route to the Mercedes-Benz plant in Montvale, New Jersey where he had and performed regular Union business obligations

While the *Rules* do prohibit campaigning during hours paid for by the Union, they permit campaigning incidental to Union business *Rules*, Article VIII, Section 10. The evidence as to this aspect of the protest is insufficient to show that Purcell's campaign activity was other than incidental. This aspect of the protest is **DENIED**.

The protest alleges that a Union-supplied car was used by Purcell during his campaign activities. Purcell admits that he used the car to transport literature to work-sites, but points out that he, as well as other full time officers are authorized by the Local to use the automobile for personal matters, including vacations. In fact, the Local Bylaws provide that "as partial compensation officers shall be permitted use of automobiles on a round-the-clock, continuous basis." Local 177 Bylaws, Section 15(b). Given the Local Bylaws and the Local's explicit policy of allowing cars to be used for personal business, it is not a violation of the *Rules* for Purcell to have used his car to transport campaign literature. This aspect of the protest is **DENIED**.

The protest alleges that Purcell offered IBT member Mike Curcio \$20.00 to distribute campaign literature for him. Curcio is a staunch Perrucci supporter. Purcell denies that he offered Curcio any money and also states that he doesn't even speak to him. Curcio states that the offer occurred while Purcell was distributing literature between 7:30 and 7:45 a.m. at the Jefferson Road UPS facility. Curcio states that Richie Peritti was with Purcell at the time. Peritti states that he was present and that Purcell did not offer Curcio any money.

It does not violate the *Rules* for a candidate to "hire" an IBT member or any other person to engage in campaign activities on a candidate's behalf. The *Rules* indeed contemplate that such hiring will occur. See, e.g., Definitions (17). There is no allegation that the \$20.00 purportedly offered Curcio was money contributed to Purcell in violation of Article X of the *Rules*. Thus, this aspect of the protest is **DENIED**.

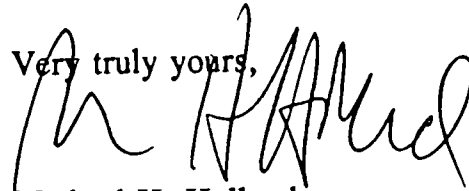
Finally, Perrucci alleges that Purcell supporters distributed campaign literature in work areas at the Gould Avenue UPS facility. Perrucci did not personally witness such campaigning, the steward denies that any campaigning occurred in work areas, the witness identified by Perrucci did not return Adjunct Coordinator Turner's calls. There is insufficient evidence to demonstrate that campaigning occurred in work areas. This aspect of the 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

Mario Perrucci
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& 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
Edward T Ellis, Regional Coordinator