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March 22, 1991

VIA UPS OVERNIGHT

Robert R. Carr
3210 Glen Echo Drive
Santa Rosa, California 95404

John Gallagher
President
IBT Local Union 624
1371 Neotomas Avenue
Santa Rosa, California 95405

Jack Spratt
Vice President
c/o Local Union 624
1371 Neotomas Avenue
Santa Rosa, California 95405

Re: Election Office Case No. P-667-LU624-CSF

Gentlemen

A pre-election protest was filed pursuant to Article XI, Article 1 of the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("*Rules*") The complainant, Robert Carr, contends that officers of Local Union 624 violated the *Rules* by campaigning during contract negotiations and by improper use of a union car for campaigning purposes

An investigation has disclosed the following facts On Thursday, February 28, 1991, during a lull in contract negotiations with Laidlaw Bus Company, Union Vice-President Jack Spratt stated to the Union negotiators that he believed the principal officers of Local 624 should be sent to the IBT Convention in June of 1991, otherwise it could reflect badly on Local 624 Spratt and Local Union President John Gallagher admit that they have engaged in campaign activities at locations to which they drove to in Spratt's car The car is owned by Spratt Spratt receives a mileage allowance from the Local Union to compensate him for Union business use of the car

Article VIII, Section 10(b) of the *Rules* prohibits campaigning on time that is paid for by the Union However, campaigning on "breaks, or similar paid time off is not violative of this section " Therefore, absent an element of intimidation, coercion or threat, nothing in the *Rules* prohibits the statement made by Spratt during the break in

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negotiations The statement was merely an expression of opinion and did not cross the line of impermissibility Accordingly, this portion of the charge is **DENIED**

Pursuant to the same provision of the *Rules*, campaigning which is incidental to Union business is permissible The Election Officer investigation discloses that all such campaigning engaged in by Spratt and Gallagher was incidental to regular Union business Accordingly, this portion of the protest is also **DENIED**

The *Rules* also prohibit the use of Union resources for campaigning Here the automobile is owned by Spratt While the Union compensates him for his business use of the car, Spratt is not prohibited from using the car for campaigning To the extent that Spratt was compensated by the Union for the use of his car on the days of his alleged campaigning being protested here, such compensation was appropriate since Spratt and Gallagher were engaged in Union business, their campaigning was only incidental to their Union work Accordingly, this portion of the protest is also **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
Donald E Twohey, Regional Coordinator