

OFFICE OF THE ELECTION OFFICER
% INTERNATIONAL BROTHERHOOD OF TEAMSTERS
25 Louisiana Avenue, NW
Washington, DC 20001

Michael H. Holland
Election Officer

(202) 624-8778
1-800-828-6496
Fax (202) 624-8792

May 2, 1991

VIA UPS OVERNIGHT

Howard D. Burgan
9043 N. 36th Dr.
Phoenix, AZ 85051

Terry Moser
Secretary-Treasurer
IBT Local Union 104
1450 S. 27th Ave.
Phoenix, AZ 85009

Re: Election Office Case No. P-740-LU104-RMT

Gentlemen:

A protest was filed pursuant to Article XI of the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("*Rules*") by Howard D. Burgan, a member and successful candidate for delegate to the 1991 IBT International Convention from Local Union 104.¹ Mr. Burgan alleges in his protest that the ballot count for Local 104 took place on March 30, 1991. However, as of April 22, 1991 the results of the election had not been posted on all Union bulletin boards as required by the *Rules*.

Article XII, § 6(b) of the *Rules* provides pertinent part as follows:

As soon as possible, but in no case later than seven (7) days after the completion of the vote count, the Election Officer shall cause to be posted a copy of the official election tally sheet on all Local Union bulletin boards and shall cause such posting to be maintained for a period of not less than thirty (30) days.

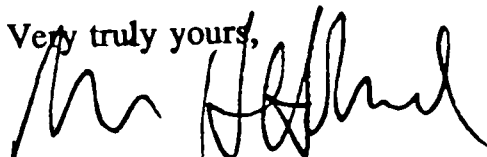
¹The Election Officer certified the results of the Local 104 delegate election on April 30, 1991.

The investigation conducted by Regional Coordinator Bruce Boyens reveals that, as of April 30, 1991, the Local had not complied with the previous direction of the Regional Coordinator to post a copy of the tally sheet on all Local Union bulletin boards in the same size and manner as attached to the official tally sheet, which had been forwarded to Terry Moser, Secretary-Treasurer of Local Union 104. Although Mr. Moser has indicated to the Regional Coordinator that the tally sheet was forwarded to all shop stewards for posting, the investigation conducted by the Regional Coordinator reveals that, to date, the election results have not been posted in all locations as required.

Accordingly, the Election Officer finds that the Local has violated the *Rules*. In order to remedy said violation, the Election Officer directs that Local Union 104 post an exact replication of the attached notice on all Union bulletin boards throughout the Local within 48 hours of the receipt of this decision and insure that said notice remain posted for at least 30 days. The Election Officer further directs that Terry Moser, Secretary-Treasurer of Local Union 104, certify to the Election Officer within 48 hours thereafter that said notices have been posted on all Local Union bulletin boards.

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/pjm

cc: Frederick B. Lacey, Independent Administrator
Bruce Boyens, Regional Coordinator

NOTICE

**RESULTS OF LOCAL UNION 104 DELEGATE AND ALTERNATE DELEGATE
ELECTION CONDUCTED ON MARCH 30, 1991**

DELEGATE CANDIDATES

**TEAMSTERS FOR
REFORM SLATE**

James A. Benson	1299
Cliff Davis	1336
Donald Swartwood	1328
Howard Burgan	1268
John D. Reynolds	1325
Richard M. Esquivel	1301
Rodney E. Brasch	1257
Kenneth G. Colombo	1285
David D. Kuno	1237

**DELEGATES FOR WORKING
TEAMSTERS OF AZ SLATE**

W. Terry Moser	996
James R. Goodwin	924
Virgil D. Hunt	936
George Gaboriault	912
Frank Vasquez	933
Maurice F. Nelson	876
William Kirkeby	883
Linda Hall	971
Luis Ortiz	903

INDEPENDENT CANDIDATES

Dick Brown	119
Joseph Mish	126
Bill Ray	104

ALTERNATE DELEGATE CANDIDATES

**TEAMSTERS FOR
REFORM SLATE**

Terry C. Askey	1347
Larry G. Manire	1302
John W. Floyd	1333
Vaughn W. Hougland	1276
W. Stuart Carson	1328
Melvin R. Milton	1321

**DELEGATES FOR WORKING
TEAMSTERS OF AZ SLATE**

Jesus Hernandez	957
Edie Shipton-Probasco	924
Robert Jones	927
Allen Garcia	913
Robert Shetler	944
Michael D. Glover	932

This Notice may not be removed for a period of at least (30) days from the date posted.

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25 Louisiana Avenue, NW
Washington, DC 20001

Michael H. Holland
Election Officer

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1-800-828-6496
Fax (202) 624-8792

June 3, 1991

VIA UPS OVERNIGHT

Howard D. Burgan
9043 North 36th Drive
Phoenix, Arizona 85051

Terry Moser
Secretary-Treasurer
IBT Local Union 104
1450 South 27th Avenue
Phoenix, Arizona 85009

Re: Election Office Case No. P-740-LU104-RMT

Gentlemen:

A compliance protest has been filed pursuant to Article XI, *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("Rules"). In this protest, Howard Burgan alleges that Terry Moser, Secretary Treasurer of Local Union 104, has failed to comply with the direction of the Election Officer in the above referenced case.

The protest was investigated by Regional Coordinator Bruce Boyens. The investigation discloses the following facts:

In a decision dated, May 2, 1991, the Election Officer found that the Local had failed to post the results of the delegate election as required by the *Rules*, and ordered such posting to be accomplished by the Local Union within 48 hours of receipt of the decision. Mr. Burgan contends, by letter dated May 13, 1991, that Mr. Moser failed to comply with the requirements of the Election Officer's decision.

On May 21 and 22, 1991, the Regional Coordinator visited work sites under the Local's jurisdiction and found that the required notice was not posted at the following sites:

Howard D. Burgan
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Fleming Foods
Kwa Container
Butler Paper
Marco Crane
Calmet
Tanner Construction
Union Rock
United Metro
CEF Equipment

The notice was posted as required at Crown Zellerbeck, Ringer Printing, and UPS.

Mr. Moser states that the election results were properly posted at all worksites including those where the Regional Coordinator found no such notice. The investigation disclosed that in those locations where the notice was not posted, the Union bulletin boards were open boards. Thus, the possibility exists that the notices could have been posted and subsequently removed.

Mr. Moser has agreed to repost the notice at all locations where it is not now posted as noted above. He has also agreed to post the results on all bulletin boards located in the Local Union Hall.

A large number of worksite bulletin boards are, however, open boards, which permits members or other unauthorized personnel to remove the required postings. Therefore to help ensure that all members of the Local Union are able to obtain notice of the election results, the Election Officer directs that the Local have available at the Local Union Hall additional copies of the election results for any Local Union member who comes to the Local Union hall and requests such notice. Further the Local shall, upon request of the Working Teamsters of Arizona Slate, the successful slate in the Local 104 delegate and alternate delegate elections, provide up to 300 copies of the election results for distribution by members or supporters of that slate.

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.

Howard D. Burgan
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Very truly yours,

A handwritten signature in black ink, appearing to read "Michael Holland", with a long horizontal flourish extending to the right.

Michael Holland
Election Officer

MHH/mjv

cc: Bruce Boyens, Regional Coordinator
Frederick B. Lacey, Independent Administrator