

OFFICE OF THE ELECTION OFFICER
INTERNATIONAL BROTHERHOOD OF TEAMSTERS
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Washington, DC 20001

Michael H. Holland
Election Officer

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May 29, 1991

VIA UPS OVERNIGHT

Robert A. Hasegawa, Local 174 Delegate
3121 - 16th Street
Seattle, WA 98144

Arnie Weinmeister
President, Joint Council 28
553 John Street
Seattle, WA 98109

Allen McNaughton
Secretary-Treasurer
IBT Local Union 174
553 John Street
Seattle, WA 98109

Re: Election Office Case No. P-773-LU174-PNW

Gentlemen:

A protest was filed pursuant to the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("*Rules*"), a copy of which protest is enclosed. The protest, filed by Robert A. Hasegawa, a successful delegate candidate from Local Union 174, relates to the requirement of the *Rules* that the Local Union pay the expenses of its delegates to attend the 1991 IBT International Union Convention and, if so provided in the approved Local Union Election Plan, its alternate delegates.

On April 19, 1991 the Election Officer issued an Advisory Regarding Convention Expenses ("Advisory"), a copy of which is enclosed, which explains the obligations under the *Rules* with respect to expense reimbursement. This protest is decided in accordance with the requirements of the *Rules*, as further explicated by the Advisory.

The first item in the protest concerns the obligation of the Local Union to pay, as part of the reasonable expenses for which it is obligated, the salary or wages of the delegates attending the 1991 IBT International Union Convention. As the Advisory notes, "Delegates and alternate delegates receiving a salary shall receive their regular weekly salary for one week . . . Delegates or alternate delegates who are paid on an hourly basis shall receive their straight time hourly wages, excluding overtime, mileage or other premiums for 40 hours . . ." Salary and wages are to be paid in addition to payment by the Local of travel expenses, hotel costs and per diem or daily expenses.

To the extent that a delegate or, if applicable, an alternate delegate is presently unemployed due to accident, injury, lay-off or otherwise, the Local is responsible for paying the benefit monies actually lost by the delegate for his or her attendance at the

1991 IBT International Union Convention. Thus, with respect to a member receiving unemployment benefits, the Local would be responsible for paying the unemployment benefits actually not received because of such Convention attendance. Similarly with members receiving worker's compensation or health and welfare benefits, the Local is responsible for reimbursing the amount of benefits actually not received because of Convention attendance.

For a member who does not have regular employment but, for instance, works as a "casual" or on a hiring hall-call basis, the average, for the three months preceding the Convention week, of the actual straight hourly wages received by him in a calendar week shall be deemed his wages for the Convention week. The Local is thus obligated to pay this amount as part of the expenses for which it is responsible. If the Local itself has no records or access to records, it may require that the member produce documents evidencing the wages earned during the three month averaging period.

Attendance at the 1991 IBT International Union Convention is Union business. Thus the *Rules* and the Advisory require the Local Union to pay the expenses of its delegates and, if applicable, its alternate delegates for attendance at the Convention. Other activities such as preparing ". . . strategies for the Convention floor . . ." or with respect to Constitutional amendments or resolutions are not, necessarily, part of the business of attending the Convention; rather, they are more akin to campaign activities. Thus, there is no obligation on the part of the Local Union to pay expenses, for such activities, for a period longer than the six nights and seven days as set forth in the *Rules* and the Advisory unless it would be unreasonable -- due to the distance to be traveled between Orlando and the Local Union location, for example, not to do so. The Advisory does not prohibit the Local Union from providing expenses for a longer period of time, provided that all delegates and, if applicable, alternate delegates are treated equally, and so long as the longer period is reasonably related to Convention activities.

The *Rules* place no obligation on any subordinate body other than the Local Union, to pay the expenses for any delegate or alternate delegate to attend the 1991 IBT International Union Convention. However the *Rules*, consistent with the IBT Constitution, permit subordinate bodies such as Joint Councils to assist Local Unions in paying the expenses of the Local's delegates and alternate delegates to attend the Convention. Further, as the Advisory notes, no Local Union may pay the expenses for any guest unless it pays the expenses for all its delegates and alternate delegates to attend the Convention.

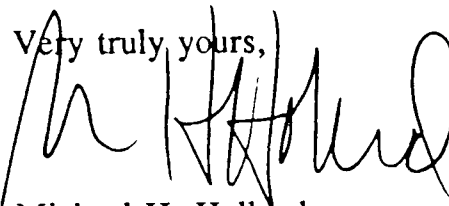
Subordinate bodies other than Joint Councils, as noted above, are not obliged to send any delegate or alternate delegate by the terms of the *Rules* or the Advisory to the 1991 IBT International Union Convention. Nor are they obliged, although they are permitted, to assist Local Unions within their jurisdiction in sending such Local's delegates or alternate delegates. A subordinate body's assistance to a Local Union in sending delegates or alternate delegates to the 1991 IBT International Union Convention

thus does not prevent such subordinate body from itself paying the expenses of its delegates, if any, and guests regardless of whether all Local Unions within its jurisdiction are paying the expenses for all of their delegates and all of their alternates. It should be noted however, in accordance with the Advisory, that guests whose expenses are reimbursed are to be only those guests whose attendance is reasonably related to the business of the Convention.

As noted above and as specifically stated in the Advisory, attendance at the 1991 IBT International Union Convention is Union business; it is not a vacation or holiday. Further it is not an opportunity for delegates or alternate delegates to earn additional income or salary. Thus it would be inappropriate for delegates or alternate delegates to receive, and be able to retain, expense monies not necessary to pay for Convention-related expenses. Thus all delegates and alternate delegates receiving per diem advance expense monies are to account for such expenditures by receipts and to return to the Local Union all monies so advanced not expended on Convention-related expenses.

Under and in accordance with the foregoing, the Election Officer has reviewed the memoranda from Davies, Roberts & Reid and finds that those memoranda appropriately set forth the requirements of the *Rules* and the Advisory with regard to the reimbursement of Convention expenses. To the extent that such memoranda are silent on a particular subject, e.g., members unemployed due to illness, injury, lay-off or otherwise, this decision sets forth the requirements of the *Rules* and the Advisory with respect to those matters.

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/mjv

Robert A. Hasegawa
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cc: Frederick B. Lacey, Independent Administrator
Christine M. Mrak, Regional Coordinator

IN RE:	:	91 - Elec. App. - 156 (SA)
	:	
ROBERT HASEGAWA	:	
and	:	DECISION OF THE
	:	INDEPENDENT
IBT LOCAL UNION NO. 174	:	ADMINISTRATOR
	:	
and	:	
	:	
TEAMSTERS JOINT COUNCIL 28	:	

This matter arises out of an appeal from a decision of the Election Officer in Case No. P-773-LU174-PNW. A hearing was held before me by way of telephone conference on June 5, 1991, at which the following persons were heard: Robert Hasegawa, the complainant; James Oswald, an attorney on behalf of Local 174; Christine Mrak, the Regional Coordinator; and John J. Sullivan and Barbara Hillman, on behalf of the Election Officer. Others audited the hearing.

This matter concerns the Election Officer's "Advisory Regarding Convention Expenses" ("Advisory"), a copy of which is attached hereto. Mr. Hasegawa, a delegate to the IBT Convention on behalf of Local 174, objects to certain aspects of the Advisory and the application of the Advisory's directives by Local 174.

The Advisory reflects a well reasoned approach to regulating a Local Union's obligation to defer the expenses of delegates and alternate delegates attending the IBT Convention as well as the

Local's obligation in regards to compensating delegates and alternate delegates for their lost wages while attending the Convention. The Advisory is consistent with the Rules for the IBT International Union Delegate and Officer Election ("Election Rules") and reflect the Election Officer's expertise. The Advisory is deserving of great deference and its directives will not be disturbed. In short, any appeals regarding the substance of the Advisory will be summarily denied. Appeals concerning the application of the Advisory's directives, however, will, of course, be considered in due course.


The only issue raised by Mr. Hasegawa regarding the application of the Advisory's directives concerns a subsidy to Local 174's delegates by Joint Council 28. In the past Joint Council 28 has subsidized Local Union delegates in its jurisdiction by issuing a check directly to the delegates. Joint Council 28 is again subsidizing the delegates who are attending the upcoming Convention. This time, however, the Joint Council is paying its subsidy directly to the Local rather than directly to the delegates.

The Joint Council is not required to subsidize delegates. That it chooses to do so is certainly not a violation of the Election Rules. Mr. Hasegawa complains that the Joint Council should, as it has in the past, pay its subsidy directly to the delegates. It was Mr. Hasegawa's plan to have all of the delegates in his Local combine their subsidy and share it with the alternate delegates so that the alternates may also attend the Convention.

That plan has been spoiled by the Joint Council's decision to no longer pay its subsidy directly to the delegates.

The past practice of the Joint Council has no bearing here. As noted the Joint Council is not obligated to subsidize delegates. Similarly, the Joint Council has no obligation to subsidize alternate delegates, directly or indirectly. Mr. Hasegawa's request that the Joint Council be compelled to do so is denied.

All of Mr. Hasegawa's other challenges go directly to the substance of the Advisory and are thus, summarily rejected.



Independent Administrator
Frederick B. Lacey
By: Stuart Alderoty, Designee

Date: June 6, 1991

June 19, 1991 Hasegawa Protest

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

UNITED STATES OF AMERICA, :
 :
 Plaintiff, :

-v- : ORDER

INTERNATIONAL BROTHERHOOD OF : 88 CIV. 4486 (DNE)
 MEMBERS, CHAUFFEURS, :
 HELPERS OF :
 et al., :
 :
 Defendants. :

-----X

IN RE: PETITION FOR REVIEW OF :
 DECISION 91-ELEC. APP.-156 OF :
 THE INDEPENDENT ADMINISTRATOR :

-----X

EDELSTEIN, District Judge:

WHEREAS petitioner Hasegawa, a delegate to the IBT convention from Local 174, appeals decision 91-Elec. App.-156 of the Independent Administrator, which affirmed the Election Officer's decision P-773-LU174-PNW; and

WHEREAS in his protest to the Independent Administrator, Hasegawa objected to the Election Officer's application of the "Advisory Regarding Convention Expenses," specifically the plan by which Joint Council 28 finances Local 174 delegates expenses at the IBT convention; and

WHEREAS Hasegawa specifically objects to Joint Council 28 paying the Local 174 delegates convention expenses directly, rather than by issuing a check for a set amount to the delegates; and

WHEREAS the Independent Administrator found that there were no provisions of the Election Rules barring Joint Council 28 from paying Local 174's delegate expenses directly rather than paying the individual delegates a set amount; and

WHEREAS the Independent Administrator further found that Joint Council 28's delegate payment policy was consistent with the Advisory Regarding Delegate Expenses; and

WHEREAS this Court and the Court of Appeals have ruled that determinations of the Independent Administrator "are entitled to great deference." United States v. International Brotherhood of Teamsters, 905 F.2d 610, 616 (2d Cir., 1990), aff'g March 13, 1990


Opinion & Order, 743 F. Supp. 155 (S.D.N.Y., 1990).

WHEREAS upon review, the determination of the Independent Administrator is fully supported by the evidence; and

IT IS HEREBY ORDERED that the decision 91-Elec. App.-156 of the Independent Administrator is affirmed in all respects.

So Ordered.

Dated: June 19, 1991
New York, New York



U.S.D.J.