

OFFICE OF THE ELECTION OFFICER
% INTERNATIONAL BROTHERHOOD OF TEAMSTERS
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August 14, 1991

VIA UPS OVERNIGHT

Joseph Di Prisco
Secretary-Treasurer
IBT Local Union 302
492 C Street, Suite A
Hayward, CA 94541

Peter Pockels
567 Doane St.
San Lorenzo, CA 94580

David Perry
820 Lawn Ct.
Tracy, CA 95376

Re: Election Office Case No. P-825-LU302-CSF

Gentlemen:

A protest was filed in accordance with Article XI, § 1 of the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("Rules") by Mr. Joseph Di Prisco, Secretary-Treasurer of IBT Local 302. In his protest, Mr. Di Prisco alleged that the delegate and alternate delegate from Local 302, David Perry and Peter Pockels respectively, submitted incomplete and improper receipts for Convention-related expenditures. Mr. Di Prisco also alleges that Mr. Pockels verbally harassed him because of his, Mr. Di Prisco's, filing of the above-referenced protest. On July 23, 1991 Mr. Pockels responded to the protest filed by Mr. Di Prisco by alleging that Mr. Di Prisco had falsely accused him of engaging in threatening behavior and had further defamed him by stating that he had served time in Soledad Prison. The Election Officer treats Mr. Pockels' communications as an answer to the protest originally filed by Mr. Di Prisco. A decision with respect to all the allegations will be set forth below.

I. Background Facts.

Mr. David Perry and Mr. Peter Pockels were the duly elected delegate and alternate delegate, respectively, from Local 302. Both Mr. Perry and Mr. Pockels attended the 1991 International Union Convention in Orlando Florida in June of 1991. Prior to leaving for the Convention, Local 302 advanced Mr. Perry and Mr. Pockels

\$910.00 per diem for Convention-related expenses.¹ Mr. Di Prisco told both men that upon returning from the Convention, they should submit receipts to the Local for any Convention-related expenditures and reimburse the Local for any per diem monies not used while in attendance at the Convention. After returning from the Convention, Mr. Perry and Mr. Pockels submitted their Convention-related receipts to Mr. Di Prisco. Mr. Perry submitted receipts totalling \$801.78 and also submitted a check in the amount of \$146.58 to Local 302 as reimbursement for the advanced money which he had previously received from the Secretary-Treasurer. Mr. Pockels submitted receipts in the amount of \$935.31. Since Mr. Pockels' expenditures exceeded the amount of per diem advanced by the Local, he did not submit any check reimbursing the Local for monies not used.

After reviewing the receipts, Mr. Di Prisco contacted Donald E. Twohey, the Election Office Regional Coordinator, to inquire as to the appropriateness and authenticity of some of the receipts submitted by Mr. Pockels and Mr. Perry. Specifically, Mr. Di Prisco objected to the amounts of many of the food receipts, the use of two rental cars and phone bills for long distance calls. Mr. Di Prisco also objected to the fact that some of the receipts submitted failed to include an adequate accounting of the expenditure. After reviewing the receipts, Mr. Di Prisco contacted Mr. Twohey to request that Mr. Twohey review the receipts in order to resolve Mr. Di Prisco's questions concerning the appropriateness of the expenditures.

On July 12, 1991 Mr. Twohey met with Mr. Di Prisco to review receipts submitted by Mr. Pockels and Mr. Perry. After meeting with Mr. Di Prisco, Mr. Twohey called Mr. Perry and Mr. Pockels to schedule a meeting to review the receipts submitted by each of them.

On Monday, July 15, at approximately 7:30 p.m., Mr. Pockels called Mr. Di Prisco at home to complain about the fact that Mr. Di Prisco had not contacted him prior to involving Mr. Twohey in the dispute about the receipts. Mr. Pockels told Mr. Di Prisco he was angry that Mr. Di Prisco had called Mr. Twohey. After he received the call from Mr. Pockels, Mr. Di Prisco called Mr. Twohey and informed that he had been threatened by Mr. Pockels. Mr. Di Prisco then filed a protest under the *Rules* alleging that Mr. Pockels had engaged in threatening and coercive behavior. Mr. Di Prisco also filed a protest alleging that Mr. Pockels and Mr. Perry had submitted improper and unsubstantiated receipts for expenditures while attending the IBT International Convention. Mr. Pockels responded by letter stating that he did not threaten Mr. Di Prisco and that Mr. Di Prisco was trying to ruin his reputation by making false statements that he had served a ten-year sentence for robbery in Soledad Prison. Each of the allegations will be reviewed in separately numbered paragraphs below.

¹Mr. Di Prisco advanced Mr. Perry and Mr. Pockels per diem monies in the amount of \$130.00 per day for seven days, in accordance with the Advisory Regarding Convention Expenses, issued April 19, 1991 ("Advisory").

II. Allegations of Threats and Coercion.

Mr. Di Prisco alleges that Mr. Pockels engaged in threatening and coercive behavior when Mr. Pockels called him on the phone on Monday, July 15, 1991. The investigation conducted by Regional Coordinator Twohey reveals the following facts. After meeting with Mr. Di Prisco to review the submitted receipts, Mr. Twohey contacted Mr. Pockels to schedule a meeting to review the receipts submitted by Mr. Pockels. Mr. Twohey informed Mr. Pockels that Mr. Di Prisco objected to some of the receipts. A meeting was scheduled for Tuesday, July 16.

On Monday, July 15, at approximately 7:30 p.m., Mr. Pockels called Mr. Di Prisco at home and according to Mr. Di Prisco, Mr. Pockels stated, "Why are you fucking with me? Get off my back. If you don't, something is going to happen." Mr. Di Prisco states that he responded, "You just threatened me, I don't think we should talk any more." Mr. Di Prisco states that Mr. Pockels then responded, "You don't have the balls to confront me. Why are you calling Twohey? You are an old man and should be committed." Mr. Di Prisco states that he then told Mr. Pockels, "I don't want to talk to you. You just threatened the principal officer of this Local Union, and I'm trying to do my job." Mr. Di Prisco stated that he then hung up the phone.

Mr. Pockels admits that he called Mr. Di Prisco at home on the evening of July 15 and he also admits that he was angry at Mr. Di Prisco for failing to contact him before he turned the receipts over to the Mr. Twohey. Mr. Pockels states that he told Mr. Di Prisco that Di Prisco did not have any guts and that this incident would come back to haunt him politically. Mr. Pockels denies that he threatened Mr. Di Prisco in any way and stated that when Mr. Di Prisco accused him of threatening him, Mr. Pockels assured him that he was not making a threat. Mr. Twohey asked Mr. Pockels about the alleged threat. Mr. Pockels states that although he cannot recall exactly what he said, he is certain that he had no intention of threatening Mr. Di Prisco.

The evidence establishes that Mr. Di Prisco became upset after Mr. Pockels' call and was particularly frightened by Mr. Pockels' statements that "if you don't get off my back, something is going to happen to you." In fact, Mr. Di Prisco called Mr. Twohey shortly thereafter to advise Mr. Twohey that Mr. Pockels had threatened him.

Article VIII of the *Rules* provides that all IBT members retain the right to engage in political activities free from threats or coercion. Although Mr. Di Prisco was not engaging in political activity per se, he was exercising his rights under Article XI of the *Rules*; his conduct in contacting Mr. Twohey was protected under the *Rules*.

The evidence indicates that Mr. Pockels did use threatening language during his phone conversation with Mr. Di Prisco. However, the evidence also establishes that Mr. Twohey immediately intervened in the situation. Mr. Twohey called Mr. Pockels and advised him of the seriousness of such threats and of the fact that the *Rules* prohibited such conduct. Mr. Pockels immediately assured Mr. Twohey that he did not intend to

threaten Mr. Di Prisco with any physical harm but that he simply wanted to warn him that there would be negative political consequences from Mr. Di Prisco's decision to involve Mr. Twohey in lieu of speaking to Mr. Pockels directly about the problem.

After speaking with Mr. Pockels, Mr. Twohey called Mr. Di Prisco and immediately advised him that Mr. Pockels stated that he did not intend to threaten him. Mr. Twohey also informed Mr. Di Prisco that he warned Mr. Pockels that the Election Officer did not condone threats or other types of coercive behavior or language. Finally, Mr. Twohey advised Mr. Di Prisco that Mr. Pockels assured him that he would not engage in similar conduct in the future.

Accordingly, the protest has been RESOLVED. However, to ensure that such conduct does not occur again in the future, the Election Officer hereby orders Mr. Pockels all parties to a CEASE and DESIST from any acts of intimidation or coercion in the future. The Election Officer specifically advises Mr. Pockels that any acts of coercion, threats or intimidation constitute a serious violation of the *Rules* for which an immediate and severe remedy will be imposed.

III. Mr. Di Prisco Alleges That Receipts Submitted by Mr. Pockels Are Unsubstantiated And Inaccurate.

Mr. Di Prisco alleges that several receipts submitted by Mr. Pockels are unsubstantiated and do not cover legitimate Convention-related expenses in accordance with the *Rules*. On April 19, 1991, the Election Officer issued an Advisory Regarding Convention Expenses which sets forth the appropriate standard for determining the legitimacy of expenditures incurred by delegates and alternate delegates at the 1991 IBT International Convention. The Advisory provides that:

The Local Union is also responsible for the reasonable per diem expenses of its delegates and, if applicable, its alternates. Only actual expenses are to be reimbursed. Under no circumstances may a member, whether a delegate or alternate delegate, or a guest, receive duplicate expenses or allowances for hotel, travel, per diem, or otherwise, even if authorized. . . .

Delegates and alternates are responsible for obtaining receipts for all expenses for which they desire reimbursement. The receipts must be submitted to the Local Union Secretary-Treasurer within a reasonable period of time after the delegates or alternate delegates return from the Convention.

The Election Officer will deem it unreasonable for the Local Union to refuse to advance per diem expense monies to all delegates and, if applicable, alternate delegates. All such advances not utilized by the delegate or alternate delegate for his or her expenses at the Convention, as demonstrated by receipts, must be returned to the Local

Union at the time the receipts for expenses are to be submitted to the Local Union Secretary-Treasurer.

While the *Rules* and the Consent Order do not prohibit spouses or other family members from attending the Convention, their expenses are to be paid personally and are not to be borne by the Union.

Mr. Pockels has submitted receipts totalling \$935.31. The Election Officer has reviewed the submitted receipts and concludes that the following receipts for expenditures are unsubstantiated, not reasonably related to the legitimate business of the Convention, and/or in violation of the *Rules* requirement restricting the expenditure of Local Union funds for spouses. Each of the expenditures which the Election Officer finds not to constitute fully reimbursable expenses will be reviewed in separately designated sections below.

A. 6/25/91 Port of Entry Expenditure.

Mr. Pockels submitted a receipt in the amount of \$13.73 from a retail establishment called "The Port of Entry" in Orlando, Florida. Mr. Twohey asked Mr. Pockels what he purchased at this store and Mr. Pockels stated that he does not remember what he bought. The "Port of Entry" is a retail clothing and gift shop. Under the *Rules*, delegates and alternate delegates, if applicable, are entitled to a per diem allowance to be used for legitimate Convention-related expenses, including food and travel. Purchases of clothing and similar personal items, costs that related to normal living, not special expenses occasioned by attendance at the Convention, are not similarly covered. Since Mr. Pockels is unable to recall what this receipt relates to, and since the establishment is a clothing shop, the expenditure does not appear to be reasonably related to legitimate Convention business. Therefore, Local 302 funds should not be utilized to cover the amount of the receipt. Accordingly, the Election Officer orders Mr. Pockels to reimburse Local 302 for the amount of the receipt, which is \$13.73.

B. 4/28/91, Unidentified Restaurant.

Mr. Pockels also submitted a receipt for April 28, 1991 in the amount of \$34.15. April 28, 1991 was two months prior to the Convention. Mr. Pockels states that the receipt pertains to a food expenditure, however, he cannot recall the type or location of the food purchase. Mr. Pockels also states that he must have written the wrong date on the receipt, but that it is otherwise a valid and accurate receipt.

As explained in the Advisory, all expenditures must be properly documented. The fact that the receipt contains an allegedly erroneous date, coupled with Pockels' inability to recall the accurate date, or any details of the expenditure, requires the conclusion that Local Union funds should not be used to cover the cost. Accordingly, Mr. Pockels must reimburse the Local for the entire amount of the receipt, which is \$34.15.

C. 6/26/91 Receipt at Charlie's Steak House.

Mr. Pockels submitted a receipt in the amount of \$77.26 for food expenses incurred while eating at Charlie's Steak House. Mr. Pockels states that the \$77.26 amount reflects the amount of two meals which he paid for, one for his wife and one for himself. The *Rules* clearly provide that per diem expenditures from the Local are not to be used to pay for any Convention-related expenses of spouses. Instead, the *Rules* provide that all such expenses are to be borne personally. Therefore, Local Union funds shall not be used to cover the amount of Mr. Pockels' wife's dinner. Accordingly, the Election Officer orders Mr. Pockels to reimburse the Local for one-half of the amount of the check, which would be \$38.63.

D. 6/22/91 Receipt for Dinner at Benihana's of Tokyo.

Mr. Pockels also submitted a receipt in the amount of \$120.74 for the cost of a dinner which he claims he and Mr. Perry shared at the Benihana Restaurant on June 22, 1991. Mr. Twohey questioned Mr. Pockels about the size of the bill and specifically asked Mr. Pockels whether the receipt also covered the expense of his wife's meal. Mr. Pockels denied that his wife was with him on that evening.

Mr. Twohey also asked Mr. Perry whether Mr. Pockels' wife accompanied them to the dinner at Benihana's and whether the receipt reflected the cost of her meal as well. Mr. Perry expressly refused to answer the question. However, Mr. Perry did state in reference to a related question concerning a Benihana receipt which he submitted for the same evening, that his receipt covered the cost of drinks he consumed while waiting for Mr. Pockels and his wife to show up at the Benihana Restaurant. The receipt further reflects that the bill includes the cost of three meals.

The evidence strongly indicates that this receipt covered the cost of three meals and that Mrs. Pockels was in attendance at the dinner and that her dinner was included on the receipt submitted by Mr. Pockels to Local 302. Accordingly, the Election Officer specifically finds that Mrs. Pockels was in attendance at the dinner and that Local Union funds may not be used to cover the expenses of her meal. Accordingly, the Election Officer orders Mr. Pockels to reimburse the Local for one-third of the amount of the \$120.74 check, which is \$40.24.

E. 6/24/91 Receipt for Dinner at Yacht Gallery.

Mr. Pockels also submitted a receipt in the amount of \$91.78 for the cost of a dinner at the Yacht Gallery Restaurant. The signature line of the American Express credit card receipt contains Mrs. Pockels' signature. Mr. Pockels' signature is written over his wife's signature. Mr. Twohey asked Mr. Pockels whether the amount of this check included Mrs. Pockels' meal as well. Mr. Pockels stated that he could not recall whether his wife was present at the meal, but that if she signed the credit slip, "she must have been there." The evidence strongly indicates that Mrs. Pockels was in

attendance at the Yacht Gallery dinner. In accordance with the *Rules*, Local 302 funds must not be used to cover the amount of Mrs. Pockels' dinner. Therefore, The Election Officer orders Mr. Pockels to reimburse Local 302 for one-half of the amount of \$91.78, which is \$45.89.

F. 6/26/91 Receipt for \$8.30.

Mr. Pockels also submitted a receipt for two purchases totalling \$8.30. The receipt does not contain the name of any store or restaurant. Mr. Twohey asked Mr. Pockels to verify this receipt. Mr. Pockels could not verify the receipt and he was unable to recall what type of expenditure the receipt represented. In accordance with the *Rules* and the Advisory, all expenditures and receipts must be fully documented. Since the receipt itself is unsubstantiated, and Mr. Pockels is unable to clarify the matter, Local Union 302 monies must not be used to cover the amount of the receipt. Accordingly, Mr. Pockels is hereby ordered to reimburse the Local for the entire amount of the receipt, which is \$8.30.

G. 6/26/91 Receipt for Drinks at Hilton Walt Disney World Complex.

Mr. Pockels also submitted a receipt for the cost of drinks at the Hilton Hotel. The receipt indicates that the expenditure is for two persons and is in the amount of \$23.14. Mr. Twohey questioned Mr. Pockels about this receipt and Mr. Pockels stated that it the receipt was for drinks that he purchased for himself as well as a delegate from Local 512 in Modesto, California. In accordance with the *Rules* and the Advisory, Local 302 is not required to pay the expenses of delegates from other IBT Locals, notwithstanding the fact that a Local 302 delegate purchased drinks for the delegate from another Local. Accordingly, Mr. Pockels is ordered to reimburse Local 302 for one-half the amount of the expenditure, which is \$11.57.

H. 6/26/91 Receipt for Country Fair Restaurant, Hilton Hotel.

Mr. Pockels also submitted a receipt in the amount of \$41.32 for the cost of a breakfast at the Country Fair Restaurant at the Hilton Hotel. Mr. Pockels states that this receipt reflects the cost of breakfast for himself, Jim Rush and Mr. Rush's son, Dan Rush. Neither Mr. Jim Rush nor Dan Rush are members of Local 302. Further, Mr. Pockels does not claim that Local 302 authorized the expenditures. Since the *Rules* and the Advisory provide that a Local Union is only obligated to pay the reasonable Convention expenses of its delegates and alternates, if applicable, Local 302 is not obligated to pay for the costs of the breakfasts for Jim Rush and Dan Rush. Accordingly, Mr. Pockels is ordered to reimburse the Local for two-thirds of the amount of the check, which is \$27.54.

I. 6/23/91 Receipt for American Vineyards, \$60.49.

Mr. Pockels also submitted a receipt in the amount of \$60.49, which he claims represents expenditures for dinner for himself and Mr. Perry at the American Vineyards

Restaurant. The handwriting on the receipt matches the handwriting on all of the other receipts submitted by Mr. Pockels and appears to be his own handwriting. Mr. Perry also submitted a dinner receipt for the same date, June 23, 1991, in the amount of \$110.93. Mr. Perry states that his receipt is for a dinner that he had with Mr. Pockels and Mrs. Pockels at the Dolphin Hotel on June 23. Neither Mr. Perry nor Mr. Pockels could clarify the situation; neither was able to state which receipt was accurate. In addition, neither Mr. Pockels nor Mr. Perry state that each consumed two dinners on the night of June 23, 1991.

Accordingly, the Election Officer concludes that the receipt for dinner at the American Vineyards restaurant is not valid. The *Rules* require that all legitimate Convention-related expenditures must be fully and accurately documented. The Election Officer concludes that Local Union 302 funds should not be used to pay for an inaccurate and undocumented expenditure. Accordingly, the Election Officer directs Mr. Pockels to reimburse Local 302 for the full amount of the check, which is \$60.49.

IV. Mr. Di Prisco Alleges That Receipts Submitted by Mr. Perry Are Unsubstantiated and Inaccurate.

Mr. Perry submitted receipts for Convention-related expenditures to Local 302 in the amount of \$801.78. Mr. Perry also submitted a check to the Local in the amount of \$146.58. Mr. Di Prisco objects to many of the receipts submitted by Mr. Perry, claiming that the receipts are unsubstantiated or are for meals for persons other than the duly elected delegate and alternate delegate from Local 302. The Election Officer has reviewed the receipts submitted by Mr. Perry and finds that the following expenses do not constitute fully reimbursable expenses.

A. 6/23/91 Dinner Receipt, Dolphin Hotel.

Mr. Perry submitted a receipt dated June 23, 1991 in the amount of \$110.93. Mr. Perry states that the amount of this check represents the cost of dinner for himself, Mr. Pockels and Mrs. Pockels. In accordance with the prohibition on using Local Union monies to pay for Convention-related expenditures of spouses, the Election Officer concludes that Mr. Perry must reimburse the Local for the cost of Mrs. Pockels' meal, which constitutes one-third of the amount of the check. Thus, Mr. Perry must reimburse Local 302 in the amount of \$36.97.

B. 6/27/91 Dinner Receipt, Dolphin Hotel.

Mr. Perry also submitted a receipt in the amount of \$104.82 for a dinner at the Dolphin Hotel on June 27, 1991. Mr. Perry states that the receipt submitted covered dinners for himself, Mr. Pockels and Mrs. Pockels. In accordance with the *Rules* prohibition against the expenditure of Local Union funds for spouses at the IBT Convention, the Election Officer concludes that Mr. Perry must reimburse the Local for one-third of the amount of the check. Thus, Mr. Perry must reimburse Local 302 in the amount of \$34.94.

C. 6/26/91 Dinner Receipt, Hilton Hotel.

Mr. Perry submitted a receipt in the amount of \$42.90 from the Hilton Hotel. Mr. Perry states that the receipt is for the price of a dinner he purchased for himself and Jim Rush. As stated earlier, Mr. Rush is not a member of Local 302 and is not a delegate from Local 302. Under the *Rules*, Local 302 is not required to pay for the cost of Mr. Rush's meals. Therefore, Mr. Perry is ordered to reimburse the Local for one-half of the amount of the receipt, which would be \$21.45.

D. 6/22/91 Receipt for Benihana, \$17.70.

Mr. Perry also submitted a receipt for \$17.70 for the cost of drinks at Benihana's restaurant. Mr. Perry states that the expenditure represents the cost of drinks which he purchased for himself and for some Canadian delegates that he met at the bar. As previously stated, under the *Rules* and the Advisory, Local 302 is obligated to pay the legitimate expenses of its duly elected delegate and alternate, if applicable. Local 302 is not required to pay for the cost of drinks for delegates from other Locals. Accordingly, assuming Mr. Perry bought drinks for only two Canadian delegates,² Mr. Perry is obligated to reimburse Local 302 for two-thirds of the amount of the check, which is \$11.80.

E. 6/22/91 and 6/28/91 Receipts For Country Fair Terrace.

Mr. Perry also submitted two check tabs from the Country Fair Terrace. One receipt is for \$20.00 and the second receipt is for \$28.00. The Country Fair Terrace is a cocktail lounge at the Hilton Hotel. Both receipts are filled out by Mr. Perry. Mr. Twohey asked Mr. Perry about the two receipts and Mr. Perry answered that he never had any drinks at the Country Fair Terrace, and that he has no recollection of the expenditures. The receipts do not indicate the nature of the purchase, and only contain Mr. Perry's handwritten amounts of \$20.00 and \$28.00.

As previously stated, the *Rules* and the Advisory require that all Convention-related receipts be fully documented, and reasonably related to the legitimate business of the Convention. The Election Officer concludes that the two Country Fair Terrace receipts submitted by Mr. Perry are unsubstantiated. Accordingly, Mr. Perry must reimburse Local 302 for the full amount of both checks, which is \$48.00.

V. Mr. Di Prisco Objects to Mr. Perry's Expenditure for Phone Calls.

Mr. Di Prisco also asks the Election Officer to determine whether various phone calls made by Mr. Perry are reimbursable as legitimate Convention expenses. Mr.

²Mr. Perry does not recall how many Canadian delegates he actually purchased drinks for; however, the investigation disclosed that there were at least two such delegates.

Twohey interviewed Mr. Perry about the phone calls. The Election Officer concludes that the calls were all family related, including efforts by Mr. Perry to contact his wife while he was at the Convention. A reasonable number of phone calls, especially calls to one's home, constitute appropriate Convention expenses. Accordingly, the Election Officer determines that the phone calls are legitimate expenses and Mr. Perry is entitled to be reimbursed for those expenses.

VI. Use of Per Diem Monies to Rent Automobiles.

Mr. Di Prisco objects to Mr. Perry and Mr. Pockels rental of two rental cars during the week of the Convention. Both Mr. Perry and Mr. Pockels lodged at the Walt Disney World Hilton Hotel. Each used a portion of his per diem to rent a car, with unlimited mileage, for the week of the Convention. Specifically, Mr. Di Prisco objects to the fact that the receipt for Mr. Pockels' car reflects that he put 370 miles on the car, and that Mr. Perry's receipt indicates that he put 313 miles on the car. As stated above, the car rental agency did not charge for the extra miles.

Mr. Twohey interviewed Mr. Pockels and Mr. Perry about the rental cars. Mr. Pockels stated they decided to rent separate cars because Mr. Perry did not want to travel in the same car as Mrs. Pockels because she is a heavy smoker. Both Messrs. Perry and Pockels stated that they used the vehicles to drive to and from the Dolphin Hotel, and to drive to restaurants in the evenings.

Under the *Rules* and the Advisory, delegates and alternate delegates were entitled to use per diem monies to rent an automobile during the Convention, so long as the use of the automobile was reasonably related to the legitimate business of the Convention. It is unrefuted that both Mr. Pockels and Mr. Perry used the vehicles to travel to and from the Orlando airport to the Convention site. Thus, assuming that additional mileage not related to legitimate Convention business was consumed, the extra miles did not result in any additional cost to Local 302. Accordingly, Mr. Pockels and Mr. Perry's utilization of a portion of their per diem allowance for the cost of two rental cars is a legitimate Convention expense. Therefore, Mr. Di Prisco's objection with respect to payment for automobile rentals is DENIED.

VII. Mr. Pockels Charges that Mr. Di Prisco is Attempting to Slander His Reputation.

In his response to Mr. Di Prisco's protest, Mr. Pockels alleges that Mr. Di Prisco is trying to ruin his reputation by accusing him of engaging in threatening behavior and by erroneously stating that he served ten years in Soledad Prison. Mr. Pockels is referring to statements made in the protest filed by Mr. Di Prisco.

In the protest filed by Mr. Di Prisco, he states that he is particularly concerned about Mr. Pockels' conduct toward him because Mr. Pockels served a ten-year sentence for armed robbery at Soledad Prison. Such a statement, whether or not true, does not establish that Mr. Di Prisco is trying to ruin Mr. Pockels' reputation. Rather, the

investigation disclosed that Mr. Di Prisco was genuinely worried after receiving the phone call from Mr. Pockels, and truly believed that Mr. Pockels served a prison sentence at Soledad Prison. Such statements, when made in a protest to the Election Officer, do not constitute a violation of the *Rules*. Accordingly, Mr. Pockels' protest is DENIED.

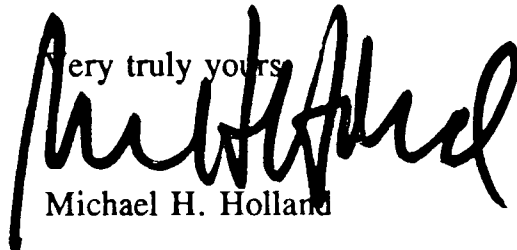
VIII. Remedy and Conclusion.

In accordance with the foregoing, Mr. Pockels is ordered to reimburse Local 302 in the amount of \$255.23.³ Mr. Pockels shall reimburse Local 302 within ten days of the date of this decision and shall simultaneously file an affidavit with the Election Officer demonstrating that such reimbursement to Local 302 has occurred.

In accordance with the rulings set forth above, Mr. Perry submitted \$153.16 worth of unsubstantiated and/or improper receipts. However, Mr. Perry also over-reimbursed Local 302 for the advance of his per diem in the amount of \$38.36. Therefore, Mr. Perry shall reimburse Local 302 in the amount of \$114.80. Such reimbursement shall occur within ten days of the date of this decision. Mr. Perry shall simultaneously file an affidavit with the Election Officer demonstrating that such reimbursement to Local 302 has occurred.

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

³The amount Mr. Pockels is to reimburse Local 302 is less the amount of the total of his unsubstantiated receipts; that total is \$280.54. However, Mr. Pockels submitted receipts of \$935.31 but only received advances of \$910.00. Accordingly, the amount he is to return to the Local is reduced by the amount of his proper Convention-related expenses for which he received no per diem expenses advance.

Joseph Di Prisco
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MHH/mjv

cc: Frederick B. Lacey, Independent Administrator
Donald E. Twohey, Regional Coordinator