



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

Michael H. Holland  
Election Officer

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September 9, 1991

**VIA UPS OVERNIGHT**

Vincent McGee  
Gover Road  
Millbury, MA 01527

Ernest R. Tusino  
Secretary-Treasurer  
IBT Local Union 170  
805 Millbury Street  
Worcester, MA 01420

Richard Foley  
c/o IBT Local Union 170  
805 Millbury Street  
Worcester, MA 01420

**Re: Election Office Case No. P-832-LU170-ENG  
P-871-LU170-ENG**

Gentlemen:

Two protest were filed pursuant to the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("*Rules*") by Vincent McGee, a member of Local Union 170. The first protest concerns a letter sent to Local Union members by Richard R. Foley, a certified delegate to the 1991 IBT International Union Convention from Local Union 170. The second protest concerns a letter received by Mr. McGee from Richard J. Rafferty, Jr., attorney for Mr. Foley, which contends that the communications by Mr. Tusino regarding Mr. Foley's first letter were defamatory.

The protests were investigated by Regional Coordinator Elizabeth A. Rodgers. After the conclusion of the 1991 IBT International Union Convention, Mr. Foley, a certified delegate to the Convention from Local 170, wrote a letter - ostensibly a report on the Convention - to the Local membership. A portion of the letter extolled the representation afforded the membership at the Convention by Carl Gentile, President of Local Union 170 and a certified delegate to the Convention from Local 170. The letter was distributed, at least in part, by utilization of the Local's mailing labels.

The letter, while a report on the 1991 IBT International Union Convention, does not otherwise implicate the nomination and election processes for International Union delegates or International Union officers. The letter does not mention any candidates for International Union office or otherwise indicate any position with this respect to the International Union officer election.

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The only "campaigning" that may be contained in the letter is with respect to Mr. Gentile. Mr. Gentile is no longer a candidate for delegate; that election is over. Neither is Mr. Gentile a candidate for any International Union officer position. Mr. Gentile, however, may be a candidate for Local Union office and the letter might be construed to constitute campaigning on his behalf with respect to the Local Union officer election.

The jurisdiction of the Election Officer does not extend to the nomination and election processes for Local Union officers. The jurisdiction of the Election Officer is limited to the process of election for IBT International Union Convention delegates and IBT International Union officers. Accordingly, the Election Officer has no jurisdiction with respect to the elections of IBT subordinate body officers, including Local Union officers, and the *Rules* are not applicable to such elections. See *Rules*, Preamble, at pp. 1-2.

Whether or not the letter prepared by Mr. Foley constitutes improper utilization of Union resources in support of Mr. Gentile and/or his candidacy for Local Union office is a matter beyond the jurisdiction of the Election Officer. Similarly, the letter by Mr. Foley's attorney, since it relates solely to Mr. McGee's commentary on a letter which is outside the scope of the Election Officer's jurisdiction, is also a matter over which the Election Officer has no jurisdiction and about which the *Rules* have no applicability. For these reasons, the protests in their entirety are beyond the jurisdiction of the Election Officer and are DENIED on that basis.

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

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MHH/mjv

cc: Frederick B. Lacey, Independent Administrator

Elizabeth A. Rodgers, Regional Coordinator

Richard J. Rafferty, Esq.  
Avis, Eden, Tolins & Rafferty  
38 Front Street, 3rd Floor  
Worcester, MA 01608