



OFFICE OF THE ELECTION OFFICER
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Election Officer

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September 18, 1991

VIA UPS OVERNIGHT

Stanley Lichtman
Secretary-Treasurer
IBT Local Union 769
8350 N.W. 7th Avenue
Miami, FL 33150

Antonio Ignelzi
11926 N.W. 30th Street
Coral Springs, FL 33065

James Benefield
533 N.W. Third Way
Deerfield Beach, FL 33441

German Porrata
4671 S.W. 128th Avenue
Ft. Lauderdale, FL 33330

Elbert Jones
1900 N.W. 84th Street
Miami, FL 33147

Doreen Gasman
257 N.E. 13th Court
Ft. Lauderdale, FL 33304

Alan Evans
10019 S.W. 145th Court
Miami, FL 33186

Olivia Wooten
20142 N.W. 62nd Avenue
Miami, FL 33015

Jimmy Lotts
1920 N.W. 184th Street
Miami, FL 33056

John F. "Jack" Barmon
11760 S.W. 83rd Court
Miami, FL 33156

Lawrence "Bud" Henize
15021 S.W. 154th Terrace
Miami, FL 33187

Re: Election Office Case No. P-888-LU769-SEC

Gentlemen, Ms. Gasman and Ms. Wooten:

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 Stanley Lichtman, Secretary-Treasurer of Local 769 in Miami, Florida. In the protest, Mr. Lichtman objects to the Local being required to pay for certain expenses for which its delegates seek reimbursement. Mr. Lichtman also claims that receipts submitted by the Local's delegates do not constitute receipts for legitimate Convention-related expenses in accordance with the *Rules*. Mr. Lichtman argues that Local 769 is entitled to be

reimbursed for the non-Convention related expenditures and requests that the Election Officer order the various delegates to reimburse the Local.

I. Background Facts

1,761.40

In accordance with the Advisory Regarding Convention Expenses, issued April 19, 1991 ("Advisory"), Local Union 769 advanced each of the seven (7) delegates from Local 769 ~~\$1,631.40~~. The money advanced by the Local included \$851.40 for the cost of lodging for six (6) nights at \$141.90 per night at the Lake Buena Vista Hilton Hotel, \$780.00 for per diem expenses representing \$130.00 per day for six (6) days,¹ and \$130.00 for travel costs to and from the Convention.

Following the Convention, Local 769 sent a letter to each delegate requesting that each delegate submit receipts for expenditures incurred while in attendance at the Convention. After reviewing the receipts, Mr. Lichtman sent a letter to each delegate requesting a meeting to discuss the submitted receipts. When some of the delegates received Mr. Lichtman's letter, they contacted Don Williams, the Election Office Regional Coordinator to request that he resolve the disputes concerning some of the expenditures. Local 769 also requested that Mr. Williams come to Miami and personally review the receipts in an attempt to settle the conflict.

On Friday, August 16, 1991, Mr. Williams met with Mr. Lichtman and Local 769's attorney, Stanley Orr, at the Local Union hall in Miami in an attempt to resolve the accounts of Doreen Gasman and Olivia Wooten, two delegates from Local 769. At the conclusion of these meetings Ms. Gasman and Ms. Wooten tendered checks to the Local in accordance with the results of Mr. Williams' meeting.

On Saturday, August 17, Mr. Williams also met with the other delegates from Local 769 to review their receipts and expenditures. Following those meetings, Mr. Williams met with Mr. Cannestro, President of Local 769, Mr. Lichtman and Mr. Orr in an attempt to resolve all outstanding Convention expense issues of these other delegates.² After the meeting, Local 769 continued to express dissatisfaction with the

¹ The Local concedes that it should have advanced each delegate \$910.00 per diem instead of \$780.00 per diem, since the Advisory specifies that delegates, and alternate delegates if applicable, were entitled to receive per diem monies for seven days, not six days as initially determined by the Local.

² Mr. Williams deferred resolving a challenged car rental bill submitted by Mr. Henize and Mr. Evans until he had an opportunity to verify the expenditure. The car rental company, Snappy Car Rental, was not open for business at the time of Mr. Williams' meeting with the Local concerning Mr. Henize's and Mr. Evans' expenditures.

recommendations submitted by Mr. Williams concerning the delegate expenses and filed this protest. Each of the claims raised by Local 769 will be reviewed in separately numbered sections below.

II. Use of Per Diem Monies to Pay for Upgraded Hotel Room

Mr. Lichtman objects to the fact that five (5) delegates from Local 769 used a portion of their per diem expenses to pay for lodging at the Dolphin Hotel. The investigation established that Local 769 made reservations for its eight (8) delegates at the Lake Buena Vista Hilton Hotel, which is located on Disney property, at a nightly rate of \$141.90. Five (5) of the delegates, Mr. Lotts, Mr. Jones, Mr. Evans, Mr. Henize and Mr. Benefield, canceled their reservations at the Lake Buena Vista Hilton Hotel and instead reserved rooms at the Walt Disney World Dolphin Hotel, which was the site of the 1991 Convention. The cost of a nights lodging at the Walt Disney World Hotel was \$191.40, which was \$49.50 higher than the cost of lodging at the Lake Buena Vista Hilton. Each of the delegates applied \$49.50 of their per diem allowance to cover the cost of the additional charge of lodging at the Walt Disney World Hotel. Local 769 objects to the five delegates' use of a portion of their per diem payment to cover the added expense of lodging at the Walt Disney World Hotel. Local 769's bases its objection on the following portion of the Advisory:

Delegates and alternate delegates are not required to stay at the hotel for which arrangements were made by the Local Union. If the delegates and alternate delegates make their own arrangements, in other words stay in another hotel, the delegates and alternate delegates are to be reimbursed by the Local Union for their actual hotel costs, at the rate of single person occupancy. In no case, however, are the delegates and alternate delegates entitled to be reimbursed in an amount greater than the cost which would have been borne by the Local if the delegates or alternates had stayed at the hotel for which arrangements were made by the Local Union.

-Advisory Regarding Convention Expenses,
April 19, 1991.

Local 769's reliance on the foregoing is misplaced: that part of the Advisory addresses the Local's obligation to reimburse delegates for lodging expenses, not the use of per diem expenses. The Advisory requires Local Unions to pay for the cost of delegate's lodging in addition to providing per diem expenses. It is to the lodging cost obligation that the limitations of the Advisory apply. The Local is not obligated to bear the greater expense for lodging than the lodging costs for which it would have paid if the delegate or alternate had stayed at the hotel for which arrangements had been made by the Local Union.

The Local is required, in addition to lodging and transportation costs and wage reimbursement, to provide its delegates and, if applicable, alternate delegates with a per diem expense advance. To the extent that the cost of the hotel at which the delegate or alternate lodges is not fully paid by the Local, the delegate or alternate delegate may properly charge the difference between the cost of the lodging and the amount of the reimbursement as daily per diem expenses. (See also Election Office Case No. P-790-LU22-MID). For the foregoing reasons, Local 769's protest with respect to these use of per diem monies to cover the additional cost of lodging at the Dolphin Hotel is DENIED.

III. Mr. Jones' June 23, 1991 Request for Reimbursement for Dinner

Mr. Lichtman objects to delegate Mr. Jones' request for reimbursement in the amount of \$13.00 for a dinner which Mr. Jones states he had on June 21, 1991, the day he arrived in Orlando. The investigation disclosed that Mr. Jones failed to obtain a receipt for the \$13.00 expenditure for the meal.

The Advisory states 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. Delegates and alternate delegates are responsible for obtaining receipts for all expenses for which they desire reimbursements. 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.

As stated above, Mr. Jones has no receipt for the expenditure of \$13.00 for dinner on June 23, 1991. ~~While the Election Officer acknowledges that the cost of the meal is extremely moderate and does not intend to suggest that Mr. Jones is attempting to seek reimbursement for costs not actually incurred, the Advisory clearly requires that~~ delegates are responsible for obtaining receipts for all per diem expenses. The purpose of such a requirement is to insure that the Local is able to maintain a proper accounting of Local Union funds, as well as to guarantee that no delegate receives a double reimbursement. Since Mr. Jones has no receipt for the \$13.00 expenditure, the Local Union is not required to reimburse him for that amount. Accordingly, the Local's protest concerning Mr. Jones' request for reimbursement for the \$13.00 is GRANTED.

Mr. Lichtman also objects to reimbursing Mr. Jones for \$58.00 in laundry expenses, which expenses are properly documented by receipts. As stated above the Local Union is responsible for the reasonable Convention related per diem expenses of

its delegates and alternate delegates. ~~Laundry or dry cleaning costs are not Convention related; laundry and dry cleaning of one's clothes are required whether one attends or does not attend the Convention.~~ Absent evidence of some extenuating circumstances requiring that Mr. Jones send his clothing to the laundry during the week of the Convention, the Election Officer concludes that such an expense is not legitimately related to the business of the Convention. The investigation did not disclose any such unusual or extenuating circumstances. Accordingly, the Local's protest with respect to the request for reimbursement for laundry is GRANTED.

IV. Receipts Submitted by Mr. Henize

Local 769 objects to receipts submitted by Mr. Henize involving expenditures for breakfast, gratuities and fuel charges. Mr. Henize is seeking reimbursement in the amount of \$30.00 for a dinner which he claims he had on June 26, 1991. Mr. Henize does not have any receipts for the expenditure. In accordance with the requirement of the *Rules* and the *Advisory* as set forth above, which provides that all expenditures must be fully documented, ~~Local 769 is not obligated to reimburse Mr. Henize for the cost of a \$30.00 meal for which Mr. Henize has no receipt.~~ Accordingly, ~~Local 769's protest concerning this matter is GRANTED.~~

Local 769 also objects to Mr. Henize's request for reimbursement in the amount of \$10.00 for gratuities which he paid to bellmen and parking attendants. Mr. Henize has no receipts for the expenditures. In accordance with the *Rules*, per diem or daily expenses to be provided by the Local to all its delegates and, if applicable, its alternate delegates are to be utilized for any and all incidental expenses, that is all expenses not otherwise paid by the Local Union which are Convention related expenses. Gratuities are among such expenses and may be paid from the per diem advance. ~~To the extent that gratuities are paid to service providers such as bellmen, chambermaids and the like, from whom receipts are not normally obtained, a receipt prepared by the delegate or alternate delegate indicating the amount of gratuity, the date on which it was provided and the nature of the service provider to whom it was provided constitutes an appropriate receipt in accordance with the *Rules* and the *Advisory*.~~

Therefore, Mr. Henize is directed to submit a "receipt" to the Local detailing the nature of the gratuities. After the Local receives the "receipt", it is required to reimburse Mr. Henize in the amount of \$10.00, which covers the amount of money Mr. Henize spent on gratuities.

Local 769 also objects to the fact that Mr. Henize and Mr. Evans submitted receipts for the cost of car rental from June 21 through July 1, 1991. The Local argues that Mr. Henize and Mr. Evans are not entitled to be reimbursed for the cost of renting the car on June 21, June 30 or July 1, 1991. The evidence establishes that Mr. Henize

and Mr. Evans drove to Orlando from Miami on Saturday, June 22. In order to get an early start for the trip, the two men picked up the rental car on Friday, June 21 and were charged for renting the car on that date. The men used the car during the week of the Convention and drove the car back to Miami from Orlando on Saturday morning, June 29. They arrived in Miami sometime after noon and attempted to return the car to the car rental company, Snappy Cars, Inc. They then discovered that Snappy Cars had closed at 12:30 p.m. on Saturday and would not open again until Monday morning. Both Mr. Henize and Mr. Evans stated that the rental company had not informed them of the fact that they would not be open Saturday afternoon or Sunday. Mr. Williams verified that Snappy's Car Rental, Inc. does close on Saturday at 12:30 p.m. and does not open again until Monday morning.

Both Mr. Henize and Mr. Evans have already agreed to reimburse the Local for the cost of the car rental on June 21. However, both men state that they should not be penalized for the fact that they were unable to return the car until July 1, 1991. Messrs. Henize and Evans further state that their use of the car during the Convention week was related to the legitimate business of the Convention.

The investigation established that neither Mr. Henize or Mr. Evans intended to keep the car until Monday, July 2. There is also no evidence even suggesting that Mr. Evans or Mr. Henize wanted to keep the rental car for an additional day and a half for personal, non-Convention related uses. Therefore, the Election Officer concludes that Mr. Henize and Mr. Evans are entitled to be reimbursed for the rental car for June 30 and July 1 due to the fact that they were unable to return the car prior to that date. Accordingly, the Local's protest with respect to this expenditure is DENIED.

V. Receipts for Mr. Evans

Local 769 also objects to delegate Mr. Evans' request for reimbursement in the amount of \$33.00 for gratuities and coffee and doughnut costs he incurred during the week of the Convention. Mr. Evans has no receipts to verify these expenditures. As stated above, per diem monies provided by the Local are to be utilized for any and all incidental expenses including gratuities and monies spent on coffee and other food items. Mr. Evans states that he purchased coffee and doughnuts in the hotel lobby during the week of the Convention and that the coffee service provided by the hotel did not issue receipts for purchases. The Election Officer's investigation confirmed the fact that the hotel did not provide receipts for purchases of coffee and doughnuts. In addition, as stated above no receipts were issued by the hotel for gratuities paid to employees working in the valet parking area.

Therefore, in accordance with the *Rules* and the Advisory, the Election Officer directs Mr. Evans to submit a "receipt" to the Local detailing the coffee and doughnuts

~~expenditures as well as the gratuities paid to the parking lot attendants during the week of the Convention. The "receipt" should contain the amount of the expenditure or gratuity, the date on which it was provided and the nature of the service for which the gratuity was given or the nature of the items purchased. Once Mr. Evans submits such "receipt" to Local 769, the Local is required under the Rules to reimburse him for the full amount of those expenditures. Accordingly, the Local's protest concerning Mr. Evans' Convention-related expenditures are DENIED.~~

VI. Receipts Submitted by Mr. Lotts

Local 769 also objects to delegate Mr. Lotts' request to be reimbursed in the amount of \$43.00 for laundry expenses incurred during the week of the Convention. As stated above, absent evidence that some extenuating circumstances required the cleaning of a delegate's clother during the week of the Convention, such an expenditure is not a legitimate Convention-related expense under the *Rules* and *Advisory*. Since the investigation did not disclose facts indicating any unusual circumstances which would have required the cleaning of Mr. Lotts' clothing during the week of the Convention, he is not entitled to be reimbursed for the expense. Accordingly, Local 769's protest with respect to this expenditure is GRANTED.

VII. Receipts Submitted by Mr. Benefield

Local 769 objects to reimbursing Mr. Benefield for \$18.95 for properly receipted gasoline expenses incurred during the week of the Convention. Local 769 claims that it is not required to reimburse Mr. Benefield for the cost of fuel charges incurred during the week of the Convention because the Local had previously advanced him \$130.00 for travel related expenses. As stated earlier, Local 769 advanced each delegate \$130.00 for travel expenses. This money was for travel expenses to and from the Convention site and was an expense the Local was required to bear under the *Rules* and the *Advisory* in addition to its obligation to pay per diem expenses.

Per diem expenses properly include the cost of local transportation at the Convention site. The investigation confirmed that Mr. Benefield drove his own vehicle to the Convention in Orlando and used his car for local transportation at the Convention. In accordance with the *Advisory*, Mr. Benefield is entitled to be reimbursed for fuel charges incurred while traveling to and from the Convention and using his vehicle during the Convention. Accordingly, Mr. Benefield is entitled to be reimburse for the fuel expenditures in the amount of \$18.95 and the Local's protest with respect to this charge is DENIED.

VIII. Receipts Submitted by Mr. Porrata

Local 769 objects to delegate Mr. Porrata's request for reimbursement in the amount of \$36.00 for parking charges incurred during the week of the Convention. ~~Mr. Porrata~~ has no receipt for the parking expenditure.

The investigation established that Mr. Porrata flew from Miami to Orlando free of charge on Pan American Airlines and parked his car in the Miami airport parking lot during the Convention week. Mr. Porrata claims that the parking lot charged him \$6.00 a day to park his car and that he parked his car for six (6) days. Mr. Porrata states that when he picked his car up from the lot he was not given a receipt by the parking lot attendant. Mr. Williams confirmed the fact that Mr. Porrata did leave his car in the airport parking lot and that the daily rate for parking the car in the Miami airport parking lot was \$6.00.

It is clear that the cost of airport parking is a legitimate Convention travel expense. It is also clear from the evidence submitted that Mr. Porrata did park his car in the airport lot, and that the daily rate was \$6.00. Moreover, Mr. Porrata stated that he was not given a receipt.

The Election Officer concludes, based on the evidence submitted, that Mr. Porrata is entitled to be reimbursed for the parking expenses. The Election Officer's decision is specifically based on the fact that the expenditure is subject to verification, as well as the fact that receipts are frequently not issued for parking lot charges. Accordingly, Mr. Porrata is directed to submit a "receipt" to the Local indicating the amount of the parking charge and the days on which he parked his car in the lot. After Mr. Porrata submits such "receipt" to Local 769, the Local is obligated to reimburse him for the full amount of the parking. Accordingly Local 769's protest with respect to this issue is DENIED.

IX. Receipts Submitted by Mr. Ignelzi

Local 769 also objects to receipts submitted by alternate delegate Mr. Ignelzi for gratuities in the amount of \$25.00. Pursuant to the Election Officer's decision concerning such expenditures as set forth above, Mr. Ignelzi is directed to submit a "receipt" to the Local for such gratuities, indicating the amount of the gratuity, the date on which it was provided and the nature of the service provider to whom it was provided. Once Local 769 receives such "receipts", it is obligated to reimburse Mr. Ignelzi for those expenditures in accordance with the requirements of the *Rules* and the Advisory. Accordingly, the Local's protest with respect to this matter is DENIED.

Local 769 also objects to the fact that Mr. Ignelzi failed to submit his original hotel bill and instead submitted a copy of the bill. During the investigation, Mr. Ignelzi informed Mr. Williams and the Local that he forgot to get obtain a copy of hotel bill when he checked out of his hotel. He later contacted the hotel's business office and requested and received that a copy of the bill.

The Election Officer finds that the Local's request for the original hotel bill is unreasonable given the established facts. There is no indication that the copy of the bill is anything but an exact copy of the original. The Local's interest in documenting Mr. Ignelzi expenditures is not adversely affected by the fact that Mr. Ignelzi submitted a copy rather than the original of the bill. The Local's claim that it is not obligated to reimburse Mr. Ignelzi for his hotel related expenditures because he has not submitted an original of the hotel bill is without merit. The Local is obligated to pay for all of Mr. Ignelzi's hotel costs. Accordingly, the Local's protest is DENIED.

Local 769 also objects to Mr. Ignelzi's request for reimbursement in the amount of \$34.00 for breakfast and lunch costs on June 29, 1991. Mr. Ignelzi does not have receipts for either of those two meals. Mr. Ignelzi did not explain why he was unable to obtain receipts for the two meals. As stated above, all expenditures for meals must be verified by receipts. Since Mr. Ignelzi has no receipts for the breakfast and lunch expenditures on June 29, he may not be reimbursed for those expenses under the Rules and the Advisory. Accordingly, the Local's protest with respect to this claim is GRANTED.

X. Receipts Submitted by Ms. Wooten

Local 769 objects to Ms. Wooten's request for reimbursement in the amount of \$150.00 for food related expenditures and for travel costs. Ms. Wooten has no receipts for the expenditures: During the investigation conducted by Don Williams, Ms. Wooten told Mr. Williams and Mr. Lichtman that she inadvertently left many of her food receipts in a plastic bag in her hotel room when she checked out and that when she called the hotel to retrieve the receipts, the hotel stated that the receipts had been thrown away. Ms. Wooten estimates that she spend approximately \$150.00 for food during the week of the Convention.

Although the Rules require that expenditures be verified by receipts, the exigency of the circumstance and simple fairness dictate that Mr. Wooten be reimbursed in the amount of the \$150.00 for food related expenses during the week of the Convention. \$150.00 for food expenses during the week of the Convention is extremely modest given the cost of food at the Dolphin Hotel and the surrounding Disney complex. The Election Officer concludes that it is inequitable to deny Ms. Wooten to pay \$150.00.

for meal expenses because she mistakenly left her receipts in her hotel room when she checked out of the hotel.

Accordingly Ms. Wooten is directed to submit a written statement to the Local detailing her loss of meal receipts and attesting that she spent at least \$150.00 for meal expenses during the week of the Convention. To the extent that Ms. Wooten is able to recall any specific food related expenditures during that week, she should include a record of such expenditures in the statement submitted to the Local. Once Local 769 receives the statement from Ms. Wooten, it is required to reimburse her in the amount of \$150.00. Accordingly, the Local's protest concerning this matter is DENIED.

The Local also objects to the fact that Ms. Wooten seeks reimbursement in the amount of \$7.55 for toll charges while driving from Miami to Orlando. Ms. Wooten states that she did not receive any receipts for the toll charges. The evidence establishes that toll expenses for a one-way trip from Miami to Orlando are \$7.55. The evidence further establishes that Ms. Wooten did drive to and from Orlando.

Tolls clearly constitute a legitimate Convention related expenditure. Moreover, the Election Officer acknowledges that it may be difficult to obtain receipts for tolls, particularly where the toll booths are automated. Based on the evidence submitted, as well as the fact that the expenditure is subject to verification, the Election Officer concludes that Ms. Wooten's request for reimbursement in the amount of \$7.55 for tolls is proper, notwithstanding the fact that she failed to obtain a receipt. Accordingly, Ms. Wooten is directed to submit a "receipt" to the Local in the amount of \$7.55 describing the date that the tolls were paid. Once such a "receipt" is submitted to the Local, the Local is obligated to reimburse Ms. Wooten for the amount of the tolls.

XI. Receipts for Ms. Doreen Gasman

The Local objects to delegate Doreen Gasman's request for reimbursement for \$42.00 for parking costs incurred when she parked her car at the Miami airport during the week of the Convention. Ms. Gasman has no receipt for the parking.

Mr. Williams interviewed Ms. Gasman with respect to this expense and Ms. Gasman stated that she drove her car to the Miami Airport and parked it during the week of the Convention. Ms. Gasman stated that when she picked up her car from the lot she was not given a receipt by the parking lot attendant.

As stated earlier, the daily parking rate at the Miami airport is \$6.00. The investigation also established that Ms. Gasman did park her car at the airport during the week of the Convention. Additionally, the parking expense is clearly a legitimate Convention related expense in accordance with the *Rules* and the Advisory.

Therefore, Ms. Gasman is directed to submit a "receipt" to the Local specifying the days on which her car was parked at the airport, as well as the amount of the expenditure. Once the Local receives the "receipt" from Ms. Gasman verifying the expenditure, the Local is obligated to reimburse her in the amount of \$42.00 for parking expenses. Accordingly, the Local's protest concerning Ms. Gasman's parking expenses is DENIED.

Local 769 also objects to Ms. Gasman's request for reimbursement for the cost of two rental cars for the week of the Convention. Local 769 also objects to the fact that Ms. Gasman submitted no receipt for one of the rental cars. The investigation established that Ms. Gasman rented a car when she first arrived in Orlando on June 22, 1991, and that she used the car to drive to the Dolphin Hotel to register for the Convention. On June 23, 1991, Ms. Gasman flew back to Miami to take her six-year-old son to a doctor's appointment.³ Before flying back to Miami, Ms. Gasman turned in her rental car at the Orlando airport. After her son's doctor's appointment, Ms. Gasman flew back to Orlando and rented another car for the remainder of the week of the Convention.

The Local's objection to Ms. Gasman use of two rental cars during the week of the Convention is without merit; the rentals were consecutive and not concurrent. Moreover, the investigation clearly proves that the underlying reason necessitating renting two cars was legitimate. Ms. Gasman states that she has contacted Budget, the rental car company, and has requested a copy of the rental agreement for the car for which she has not submitted a receipt. She has agreed to submit a copy of the rental car agreement to the Local as soon as she receives it from the car rental company. Once Local 769 receives a copy of the rental agreement, it is obligated to reimburse Ms. Gasman for the cost of both rental cars. Accordingly, the Local 769's claim with respect to this protest is DENIED.

XII. Mr. Barmon's Telephone Calls

Finally, Local 769 objects to Mr. Barmon's request for reimbursement in the amount of \$75.01 for long distance phone calls placed by Mr. Barmon during the week of the Convention.

Mr. Williams informed Local 769 that the Election Officer has determined that a reasonable number of long distance phone calls per day by the delegate to his home are appropriate Convention related expenses. The Election Officer has also found that

³Ms. Gasman stated that her son has cancer, and that she needed to accompany him to the doctor's appointment.

Stanley Lichtman
September 18, 1991
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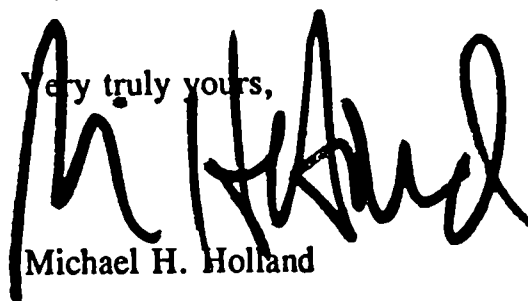
under normal circumstances two such calls per day is reasonable. The Local objects to the Election Officer's policy with respect to phone calls, claiming that it is in conflict with the Local's past practice as well as the policy adhered to by the IBT.

Mr. Barmon states and the Election Officer investigation found that during the week of the Convention he spoke to his family on a regular basis. The record indicates that Mr. Barmon placed a total of 13 long distance calls, five on June 23, three on June 24, two calls on June 25, two on June 26, none on June 27, one on June 28, and none on June 29.

The past practice or policy of the Local and/or the IBT with respect to long distance calls is not relevant to the question of whether Mr. Barmon's long distance expenses were Convention related expenses under the *Rules* and the Advisory. The Election Officer has previously held that past practice is not a determinative of the Local's expense obligations for the 1991 Convention. See Election Officer Case No. P-733-LU174-PNW, affirmed 91-Elec. App.-156. Moreover, Mr. Barmon's phone record establishes that his long distance calls were reasonable in number and otherwise consistent with the Election Officer policy. Accordingly, the Local's argument with respect to this issue fails to state a violation of the *Rules* and the protest is hereby 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/mjv

cc: Frederick B. Lacey, Independent Administrator
Donald H. Williams, Regional Coordinator

IN RE	: 91 - Elec. App. - 193 (SA)
IBT LOCAL UNION 769	: DECISION OF THE
and	: INDEPENDENT ADMINISTRATOR
JAMES BENEFIELD, ELBERT	:
JONES, ALAN EVANS, JIMMY	:
LOTT, LAWRENCE "BUD" HENIZE,	:
ANTONIO IGNEZI, GERMAN	:
PORRATA, DOREEN GASMAN,	:
OLIVIA WOOTEN and JOHN F.	:
"JACK BARMON.	:

This matter arises as an appeal from the decision of the Election Officer in Case No P-888-LU769-SEC. A hearing was held before me by way of teleconference on September 26, 1991, at which the following persons were heard: Stan Orr, on behalf of IBT Local 769, John J Sullivan, on behalf of the Election Officer; Donald H Williams, the Regional Coordinator, and Antonio Ignelzi, Doreen Gasman and John F. Barmon, delegates from Local 769 to the 1991 IBT Convention. Stanley Lichtman and Tony Cannestro, Officers of Local 769 and Jimmy Lotts, another delegate to the Convention, audited the hearing. The Election Officer also submitted a written summary in accordance with Article XI, Section 1 a (7) of Rules For the International Union Delegate and Officer Election ("Election Rules").

The issue in this appeal is Local 769's assertion that certain expenses claimed by its delegates and alternate delegates during

the 1991 IBT International Convention are not reimbursable under the Election Rules and the Election Officer's "Advisory Regarding Convention Expenses" ("Advisory").

The essential facts are not in dispute. Doreen Gasman, Jack Barmon, Olivia Wooten, Alan G. Evans, Jimmy Lotts, Elbert Jones, James Benefield and German Porrata won election as delegates from Local 769 to the 1991 IBT International Convention. Bud Henize and Antonio Ignelzi were elected as alternates. The Local advanced each of the delegates and alternates the sum of \$1,761.40 which included \$851.40 for the cost of lodging for six nights at the Lake Buena Vista Hilton Hotel in Orlando, Florida, the location of the Convention, at \$141.90 per night; \$130.00 for travel from the delegate's home to Orlando; and \$910.00 in per diem at \$130.00 per day for seven days.¹

After the Convention, the Local asked the delegates to submit receipts for all expenses claimed as reimbursable and to repay any unused funds previously advanced. After reviewing the receipts, the Local challenged some of the expenses claimed by the delegates. When the ensuing dispute could not be resolved despite the efforts of the Election Officer's Regional Coordinator, the Local filed a protest. The Election Officer upheld the Local's protest with respect to certain expenses and denied it with respect to others. The Local then filed this appeal regarding the items which the

¹ Despite the appearance of different figures in the Election Officer's Summary and decision letter, the parties agreed at the hearing that the figures cited here are correct.

Election Officer had denied. No other party filed a timely appeal²

For reasons specifically discussed below, I affirm the Election Officer's decision in all respects.

MERITS OF THE PROTEST

Use of Per Diem For Upgrading Hotel Room

The Local reserved rooms for the delegates and alternates at the Lake Buena Vista Hilton Hotel, which is located very near the Convention site, at a nightly rate of \$141 90. Lotts, Jones, Evans, Henize and Benefield made their own reservations, however, at the Walt Disney World Dolphin Hotel, the actual site of the Convention. The Dolphin nightly rate was \$191 40 or \$49 50 higher than the rooms reserved by the Local. The Local argued that it is not obligated to pay hotel costs in excess of what it had reserved. The Election Officer ruled that the members of the delegation (sometimes hereinafter the "members") could opt to pay the additional hotel cost out of their per diem allotment.

² Evidently the hearing was audited by Jimmy Lotts who did not make a presentation but whose notice of appeal was received by the Election Office on the day of the hearing and faxed to this office while the hearing was in progress. Mr Lotts' appeal was not filed within the time limitations set forth in the Election Rules, Article XI, Section 1 a (5). However, I note that had a timely appeal been filed, Lott's arguments would not require a reversal of the Election Officer's decision. His suggestion that his laundry expense would be considered tax deductible by the IRS, even if correct, has no bearing on criteria for reimbursable expenses under the Election rules.

Office In arguing that the members could not use their per diem to pay the excess hotel cost, the Local relied on language in the Advisory which states that members are not entitled to reimbursement that exceed the cost of the lodging arranged by a Local. The Local also refers to a portion of the Advisory which states that the per diem is "in addition to" the expenditure for the hotel room. The Local notes that under its interpretation, the delegates would be required to refund the excess between the room rate reserved by the Local and the room rate incurred by the delegates. In sum, the Local argues that the plain language of the Advisory prevents this reimbursement and adopting the delegates' position would cost the Local more than it agreed to pay.

The Election Officer states that nothing in the language of the Advisory prevents the members from using their per diem allowance to pay for enhanced lodging. The real issue, the Election Officer suggests, is whether or not the expenses were reasonable and actually incurred. The Election Officer also states that the "in addition to" language of the Advisory was intended to prevent Locals from reducing the per diem allotted to delegates and cannot be read as excluding reimbursement for reasonable lodging expenses. Moreover, the Election Officer notes that by applying the per diem to the hotel expenses, the members lost the opportunity to apply it to other expenditures. In other words, the members were free to choose where to spend their per diem as long as their expenses remained reasonable. In sum, the Election

officer found the additional lodging costs to be a reasonable expense reimbursable by the Local.

The Local does not dispute that the additional hotel expenses were actually incurred or that they were reasonable. As noted, the Local simply interprets the language of the Advisory as forbidding reimbursement of lodging greater than the Local agreed to pay.

The Election Officer's decision is affirmed.

The Election Officer's view of the Advisory's intended effect is entitled to deference. The Advisory is not a contract, as the Local suggests, which must be construed against its drafter. The Election Officer's expertise in such matters is edifying and will be considered. Moreover, the Election Officer's interpretation is wholly consistent with the language and intent of the Advisory. As the Advisory itself states:

The issue of expenses is governed by the letter and spirit of that Consent Order as well as the Rules. The Election Officer will view the refusal of a Local Union to pay the actual reasonable expenses of its delegates and, if applicable, its alternate delegates, to attend the Convention to constitute a serious violation of the Rules.

Moreover, this Office has previously indicated that it would give deference to the Election Officer's determinations regarding the substantive content of the Advisory. See In Re Robert Hasegawa, 91-Elec. App. - 156(SA) ("In short, any appeals regarding the substance of the Advisory will be summarily denied.") To the extent that this appeal raises an issue of the substantive content of the advisory -- whether the Advisory requires reimbursement of

incurred. In a situation where it was difficult or impractical to obtain a receipt. Accordingly, it directed the delegation member to prepare a "receipt" in the form of a personal statement describing and attesting to the expenditure.

With respect to Wooten's \$150.00 food expense claim, the Election Officer reasoned that Wooten had to have incurred meal expenses during her week-long stay at the Convention, that \$150.00 was a reasonable expense under the circumstances and that it would be harsh and inequitable to impose such a large cost on her by invoking the receipt requirement simply because she misplaced her receipts.

The Local's objection to reimbursement in each of the above instance was likewise the same. The Advisory required a receipt; absence of a receipt made it impossible to substantiate the expense, after the fact statements in lieu of receipts would not meet the documentation requirements of an audit by the Department of Labor. The Local acknowledged that its concern was enforcing the principle of requiring receipts and that it was not questioning the existence of the expenses or the motives of the members who were making claims for reimbursement.

It is clear that the Election Officer sought to balance the requirement of obtaining a receipt against the goal of reimbursing all reasonable and actual expenditures incurred by delegates and their alternates. This is consistent with the Advisory's goals of preventing reimbursement for extravagant or unfounded expenditures.

while seeking to make delegates and alternate delegates whole for costs reasonably incurred. The position of the Local, however, is too draconian and ignores the underlying theme -- that reasonable expenses, actually incurred must be reimbursed.

I find that the expedient of requiring personal statements in the absence of actual receipts in this situation is an acceptable approach.

Hotel Receipt of Antonio Ignelzi

Local 769 sought to deny reimbursement to Ignelzi for his lodging expenses because he submitted a copy rather than an original hotel bill. Ignelzi explained that he forgot to take the original bill when he checked out and later contacted the hotel's business office to obtain a copy. At the hearing, the Local asserted that it had the right to question the copy because it looked different than the receipts it had received from the other delegates but that it drew no conclusions about the bill's origin. The Election Officer characterized this as the most specious objection raised by Local 769 in its protest. Ignelzi stated that this was the only bill he had received from the hotel, that he had sent his mastercard bill corroborating the hotel expenditure to the Local, and that a letter sent to him by the Local suggesting that

³ The Local expressed concern that if it were to allow its business agents and the like to be reimbursed without receipts, it would be inviting abuse. The Election Officer's decision, however, applies only to the reimbursement for Convention expenses and has no application to the Local's other accounting practices.

he falsified the bill was highly objectionable. Since it has been shown that there is no basis for questioning the amount and existence of this expense, I affirm the Election Officer's decision that the Local reimburse Ignelzi⁴

Other Disputed Items

In addition, Local 769 objected to paying the cost of Barmon's phone calls to his family, Gasman's car rental expenses for transportation at the Convention site, Benefield's gasoline expenses for transportation at the site, and one day's extra car rental costs incurred by Henize and Evans because they returned from the convention on a Saturday when the car rental agency was closed

Local 769 argues that Barmon's phone calls to his family were excessive, that Gasman and Benefield did not require transportation at the Convention site and therefore should not be reimbursed for the expenses thereof, and that Evans and Henize should have known when they rented the car that it could not be returned on a Saturday afternoon. The Election Officer, however, found that an average of two or less phone calls per day to one's family and transportation costs at the Convention site were legitimate, reasonable expenditures entitled to reimbursement. Gasman, for example, stated that she needed the car to travel to offsite

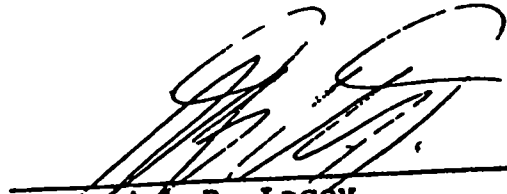
⁴ If the Local was truly concerned with the veracity of the bill submitted by Ignelzi, it could have contacted the hotel itself

caucuses. The Election Officer also found that Evans and Henize were not informed of the early Saturday closing by the rental agency and that they had no intention of using the car for non-Convention related purposes. Accordingly the Election Officer denied the Local's protest as to these items. Agreeing with the Election Officer that these expenses were all reasonable and actually incurred, I affirm the Election Officer's decision that they must be reimbursed.

CONCLUSION

I note that Local 769 has approached this matter as an adversarial audit. I also note that this dispute arises in this context of a hotly contested delegate election in which a slate of incumbent Local Union officers were defeated by the current delegation. The Election Officer and this office have previously intervened in the affairs of this Local. See, e.g., In Re. Stanley Lichtman, 91 - Elec App - 109 (SA) (March 26, 1991). At the present hearing there was some suggestion that tensions between rival political factions within Local 769 may have played a role in generating this dispute. Whatever the Local's motivations, it is clear that it has chosen to ignore its obligation to compensate delegates and their alternates for reasonable expenses actually incurred.

For the foregoing reasons, the decision of the Election Officer is affirmed in all respects



Frederick B Lacey
Independent Administrator
By Stuart Alderoty, Designee

Date September 30, 1991
LACEY
INDEPENDENT ADMINISTRATOR
STUART ALDEROTY, DESIGNEE