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Election Officer

November 14, 1991

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**VIA UPS OVERNIGHT AND FACSIMILE WHERE INDICATED**

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**Re: Election Office Case Nos. P-954-IBT and P-1063-IBT**

Gentlemen;

On October 7, 1991, a protest was filed pursuant to the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("Rules") by Chris Scott on behalf of the R. V. Durham Unity Team (Election Office Case No. P-954-IBT). On October 11, 1991, Mr. Scott filed four amendments to this protest; he filed another amendment on October 25th, and another on November 7th. Mr. Scott's protests challenge numerous alleged campaign contributions by the Pennsylvania Conference of Teamsters, Joint Council 53, and IBT Local 115 to the Shea-Liguoris Action Team slate of candidates and, particularly, John P. Morris, President of Joint Council 53 and IBT Local 115, and a candidate for Vice President on the Shea-Liguoris Action Team. One allegation concerning improper campaign support by the Pennsylvania Conference of Teamsters through the Fall, 1991 edition of its newspaper

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is also the subject of a protest filed by Richard Gilberg on behalf of the Ron Carey Slate of candidates (Election Office Case No. P-1063-IBT). These protests were investigated by Regional Coordinator Peter V. Marks, Sr.

**I. August 31, 1991 Solidarity Day Rally.**

Mr. Scott alleges that Shea-Liguoris campaign signs and placards were transported to the Washington D. C. Solidarity Day parade site in trucks owned by the Pennsylvania Conference of Teamsters, a use of Union funds in violation of Article VIII, Section 10(b) of the *Rules*.

Article XI, Section 1 of the *Rules* requires that protests be filed within forty-eight hours or be waived. Mr. Scott was present at the August 31st parade and presents himself as a witness in support of this protest; yet he took no action to file this protest until October 7, 1991, five weeks later. While the Election Officer has interpreted the required time limits for filing protests liberally, the Election Officer cannot overlook Mr. Scott's five week delay in filing this protest.

Furthermore, investigation revealed that individuals who displayed Shea-Liguoris placards brought them to the Washington D. C. parade site on their own; the Election Officer's investigation uncovered no evidence which substantiated the assertion that the signs were transported in the trucks of the Pennsylvania Conference of Teamsters.<sup>2</sup>

For these reasons, the Election officer DENIES that portion of the protest in Election Office Case No. P-954-IBT concerning the events of the Solidarity Day rally on August 31st.

**II. Improper Campaign Contributions to Candidate Morris.**

Mr. Scott contends that John Morris has received campaign contributions from several persons who are alleged either to be employers or to have been on a union payroll at the time they engaged in campaign activities on behalf of Mr. Morris or the Shea-Liguoris Action Team. Investigation has revealed that Mr. Bryce Barnes, an employee benefit funds consultant, does not employ anyone and therefore is not an employer under the *Rules*. Lori Brim is a bank employee who signed a money order for in exchange for cash given her which had been collected by a Local 115 member who

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<sup>1</sup> One of Mr. Scott's amendments to his protest concerned action allegedly taken during the March 1991 meeting of the Pennsylvania Conference of Teamsters to endorse John Morris's candidacy; this aspect of Mr. Scott's protest is also denied, *infra*, as untimely.

<sup>2</sup> Mr. Scott also charges that the campaigning which occurred at the rally was in violation of orders of IBT President McCarthy; if President McCarthy issued such a directive, that is a matter over which the Election Officer has no jurisdiction.

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sold raffle tickets to raise funds for the Morris campaign. James Smith and Gerald Sheehan, while employed by joint IBT-employer benefit funds, have engaged in campaign activities on their own time, not during paid work hours. Timothy O'Neill is currently on an unpaid leave of absence from the Pennsylvania Conference of Teamsters in order to campaign for the Shea-Liguoris Action Team and is receiving compensation from campaign funds. In sum, the results of the investigation do not substantiate Mr. Scott's allegations.

Mr. Scott further alleges that Mr. Morris has used a Union automobile to campaign. Investigation has shown that the black Cadillac which Mr. Morris has used to campaign is his personal car, not a Union-owned vehicle. Further, receipts have been provided to document that automobile expenses have been paid out of campaign funds. Similarly, reimbursements for expenses incurred by Mr. Morris and Mr. O'Neill during overnight campaign trips have been made from campaign funds, contrary to Mr. Scott's allegations.

Mr. Scott also alleges that IBT Local 115 has provided printing services to John Morris's campaign. While Local 115 does have a print shop, none of the campaign materials claimed by Mr. Scott to have been printed with use of Local Union resources were printed at Local 115's print shop. The Election Officer's investigation disclosed that no campaign materials for the Shea-Liguoris Action Team or any candidates on such slate were printed at Local 115's print shop. Nor was there any evidence to support the charge that any employee of Local 115 was on the Union's payroll at the time that person assisted in the preparation of campaign material.

Other allegations made by Mr. Scott concerning use of union funds to campaign, many of them occurring months ago, were not substantiated during the investigation. For these reasons, this portion of Mr. Scott's protest is also DENIED.

### III. The 1991 Joint Council 53 Annual Meeting and Subsequent Coverage in the Pennsylvania Conference of Teamsters Newspaper.

Teamsters Joint Council 53 held its annual meeting on September 22nd through September 25, 1991, in Atlantic City. The events of the annual meeting were prominently featured in the Pennsylvania Conference of Teamsters newspaper published in early November. Mr. Scott alleges that Shea-Liguoris candidates made campaign presentations at the meeting which were thereafter reported in the newspaper. Mr. Gilberg also protests the contents of the newspaper as alleged improper support for the candidates on the Shea-Liguoris Action Team.

Various candidates on the Shea-Liguoris Action Team were featured speakers at Joint Council 53's Annual Meeting: John P. Morris, President of Joint Council 53 (candidate for Eastern Conference Vice President); Walter Shea, Secretary-Treasurer of

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the Eastern Conference (candidate for General President); Frank Carracino, President of New Jersey Joint Council 73 (candidate for Eastern Conference Vice President); and Eddie Kornegay, President of Washington D. C. Joint Council 55 (unsuccessful candidate for International Union Trustee). In addition, Joseph P. Santone, Secretary-Treasurer of Joint Council 53 also spoke. Mr. Santone, a nominated candidate for Eastern Conference Vice President who has now withdrawn his candidacy, while never formally a member of the Shea-Ligurotis Action Team, used his candidacy to support the election of the Shea-Ligurotis slate members. See October, 1991 edition of The International Teamster. These individuals were the only Teamsters officials invited to address the conference. In addition, William Genoese, candidate for Vice President at Large on the Shea-Ligurotis Action Team, was an unscheduled speaker. Whereas in past years there were a variety of invited speakers, including heads or representatives of IBT Trade Divisions and Conferences such as R. V. Durham in 1990,<sup>3</sup> in 1991 all but one of the invited speakers were candidates on the Shea-Ligurotis slate.<sup>4</sup> Approximately 200 delegates were in attendance, consisting largely of officers and business agents of IBT local unions.

The introductions to each of the speeches referred to each speaker as a candidate in the forthcoming election. While the speeches did not contain explicit campaign propaganda, each speaker discussed his perception of the problems facing the IBT and his opinion about the solutions--his vision of the future of IBT. In other words, these speeches, without explicitly stating "here is why you should vote for me," implied as much; the only missing element of what would be viewed as a typical campaign speech was negative comments about the opposition. The substance of the speeches were virtually indistinguishable from a standard campaign stump speech. Several speakers criticized the current leadership of the IBT as well as the government supervision of the IBT election process; several mentioned the election. While the selection of each of the speakers may be explainable apart from their candidacy on the Shea-Ligurotis Slate, the absence of anyone other than these candidates is significant.

The contents of each of the speeches, including Mr. Genoese's unscheduled speech, were reported at length in the Pennsylvania Conference newspaper published in early November and sent to all members. Each of these speakers/candidates is featured in a boxed format which includes his photograph, a bold faced listing of the positions

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<sup>3</sup> In preceding years, there were speeches from the Legislative Director of the IBT, an IBT D.R.I.V.E. representative, and the head of the Bakery Conference, among others.

<sup>4</sup> New Jersey Governor James Florio also spoke in 1991, as he did in 1990.

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he holds in the Teamsters, a capsulized listing entitled "problem" and "solution,"<sup>5</sup> as well as a two paragraph account of his speech. In addition, the cover and first three pages of the newspaper are devoted to an article about John Morris in which his photograph appears four times, including on the front page or cover of the magazine.

The Election Officer concludes that the combination of these events, the partisan speeches at the Annual Meeting and then prominently featuring the speakers and their speeches in the newspaper, violates the *Rules*. Two full pages of the Pennsylvania Conference Newsletter are devoted to pictures of the candidates who spoke at the Joint Council 53 Annual Meeting. The lead-in to the pictures and comments states, "that the solutions offered were drawn from the speakers' years of experience - and not some academic whiz kid's quick fix", clearly suggesting the probity of the messages of these individuals - all candidates for International Union office on a single slate - and clearly implying that such candidates are worthy of election. It is noteworthy that the unscheduled speaker, candidate Genoese, was as prominently featured in the newspaper as the invited speakers.

Additionally, the cover and first three pages of the newspaper are devoted to an article about Mr. Morris, include four pictures of Mr. Morris, one of which is a prominent front-page photograph. The Fall, 1991 edition of the Pennsylvania Conference's newsletter is devoid of coverage of any candidate who is not a member of the Shea-Ligurotis Action Team.

The *Rules* are violated when campaigning occurs at a Union meeting to which some, but not all, competing candidates are invited. See *Rules*, Article VIII, §4 and §10(c). The *Rules* further prohibit Union financed publications from being used to support the candidacy of any person. *Rules*, Article VIII, §7(a). Publication of prominent, particularly cover, photographs of a candidate and numerous photographs of the same candidate accompanying a single article, constitutes improper campaign support by a Union financed publication. See Advisory on Union Publications, issued December 21, 1990 ("Advisory"). Similarly the failure to report on activities undertaken or views held by certain candidates while reporting on similar activities and views of competing candidates demonstrates a violation of Article VIII, §7(a) of the *Rules*. See Advisory at page 3. For these reasons, the Election Officer concludes that Joint Council 53's Annual Meeting when coupled with the report of that meeting in the Fall, 1991, publication of the Pennsylvania Conference of Teamsters, and in light of the other articles in the Fall, 1991 Pennsylvania Conference newsletter, demonstrates that improper support was given by Union bodies, specifically the Pennsylvania Conference of Teamsters and Joint Council 53, to the candidates on the Shea-Ligurotis Action Team.

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<sup>5</sup> For example, next to Walter Shea's photograph is the listing "Problem--Declining Presence of U. S. Labor Movement; Solution--Strong Political Agenda & Determined Leaders."

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The remedy for this violation is intended to afford other candidates a similar opportunity for access to the persons attending Joint Council 53's Annual Meeting and to the members who received the Pennsylvania Conference newspaper. Since the candidates on the Shea-Ligurotis Action Team were featured in a two page article which contained their photographs, each of the other two slates and the independent candidate, Robert A. Sasso, seeking election in the Eastern Conference, shall be afforded a mailing of similar size and content to be provided and paid for jointly<sup>6</sup> by the Pennsylvania Conference of Teamsters and IBT Joint Council 53.<sup>7</sup> The literature to be so mailed shall be provided to the Pennsylvania Conference of Teamsters, in camera-ready form, by the Ron Carey Slate, the R. V. Durham Unity Team and Mr. Sasso.

The literature shall not be longer than one page, 8½ by 11 inches, but may be printed on both sides and may contain photographs. The literature shall be mailed to each individual who received the Pennsylvania Conference magazine and to each individual who attended Joint Council 53's Annual Meeting.

Each mailing shall be sent in separate envelopes by first class mail within two business days after receipt of a camera ready copy from the slates and the independent candidate. The Ron Carey Slate, the R. V. Durham Unity Team and Mr. Sasso shall provide the Election Officer with a copy of its or his campaign literature at the same time a copy is provided to the Pennsylvania Conference of Teamsters. Within three business days after completing the mailings required by this decision, the Pennsylvania Conference of Teamsters shall submit an affidavit to the Election Officer demonstrating that the mailings have been accomplished. Due to the 1991 IBT International Union officer election schedule, an appeal of the Election Officer's decision will not stay the remedy herein ordered. *Rules*, Article XI, §2(z).

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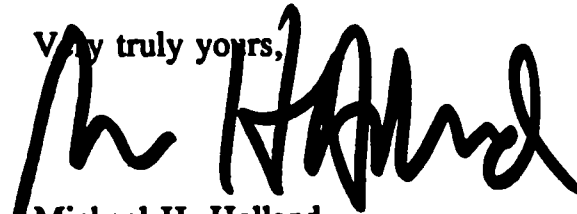
<sup>6</sup> In view of the much larger audience which received the Pennsylvania Conference's newspaper as compared to the approximately 200 in attendance at Joint Council 53's annual meeting, the Election Officer directs the Pennsylvania Conference of Teamsters to bear 75 per cent of the cost of the mailings and Joint Council 53 to bear 25 per cent of the cost.

<sup>7</sup> The Election Officer is cognizant that the Pennsylvania Conference's newspaper is not necessarily mailed to each member of the Conference. Some copies are hand-delivered by Local Union business agents and stewards; some are distributed by mailing by the Local. In any event, the publication is widely disseminated to members. Accordingly, and given the 1991 IBT International Union officer election schedule, the Election Officer has determined that a mailing is the only remedy which can appropriately and timely remedy the *Rules* violations found.

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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/ca

cc: Frederick B. Lacey, Independent Administrator

Peter V. Marks, Sr., Regional Coordinator

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