



OFFICE OF THE ELECTION OFFICER  
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April 24 1991

VIA UPS OVERNIGHT

Bruce Retrum  
Secretary Treasurer  
c/o The Flight Attendants  
for a Secure Future Slate  
IBT Local Union 2747  
2850 Metro Dr  
Suite 225  
Bloomington MN 55425

A a M Rasmussen  
c/o The Flight Attendants  
for Teamster Reform &  
Democracy Slate  
c/o IBT Local Union 2747  
2850 Metro Dr  
Suite 225  
Bloomington MN 55425

Re Elect on Office Case No Post 36 LU2747 NCE

Dear Mr Retrum and Ms Rasmussen

On March 1 1991 a post election protest was filed by Bruce Retrum Dotty Malinsky Dane Anselmo and Terry Aliotta. The protests are timely under Article XI § 1(b)(1)(a) of the *Rules for the IBT International Union Delegate and Officer Election* revised August 1 1990 ( *Rules* ). The protestors are members of Local Union 2747 and sought election as 1991 IBT International delegates and alternate delegates from that Local 2747 as members of the Flight Attendants for a Secure Future Slate ( Secure Future Slate ). They claim that the *Rules* were violated by the Local 2747 members seeking election on the Flight Attendants for Teamster Reform and Democracy Slate ( Reform and Democracy Slate ) in three respects. The Regional Coordinator Barbara Qndel conducted the investigation of these allegations.

The election in Local 2747 was conducted by mail. There were 2670 ballots mailed of which 1282 were returned and of which 1226 were valid and counted. The vote tally for the delegate election was the following:

Scott Woll	611
Ana Rasmussen	610
Dotty Malinsky	609
Dane Anselmo	602
Bruce Retrum	585
Donald Brosnan	566

The vote tally for the alternate delegate election was the following:

Terry Aliotta	595
John "Jake" Davis	580.

The Local elected three delegates and one alternate. Two of the winning delegate candidates were members of the Reform and Democracy Slate and the remaining winning delegate was from the Secure Future Slate, the winning alternate candidate was a member of the Secure Future Slate. The margin of victory in the delegate election was seven votes. Fifteen votes separated the two alternate delegate candidates.

The first claim is that the Reform and Democracy Slate members campaigned on employer-leased property, during work and non-work time, and in work and non-work areas, using employer-owned/leased facilities (parking lots, work areas, rest areas, etc.) and employer-owned/leased equipment (bulletin boards, walls, doors, tables, etc.). The claimants alleged that they refrained from similar campaigning, thereby providing an unfair advantage to the Reform and Democracy Slate.

The protestors were unable to present any evidence of campaigning on work time and the Election Officer investigation uncovered no such evidence. The specific complaint raised by the protestors with respect to campaigning involved (1) the posting of campaign literature on the bulletin board in a computer bidding room used by flight attendants in the Flight Services Building, and (2) the distribution of campaign literature in the crew bus shelter which is located in the flight attendants parking lot at the Minneapolis/St. Paul International Airport.

With respect to the posting on the computer bidding room bulletin board, the protestors state that such bulletin board is not a general purpose bulletin board, but rather one reserved exclusively for official employer notices. The *Rules* do not prohibit campaign postings on bulletin boards historically used for official company and/or Union material. The *Rules* merely do not require that the Union and/or employer permit campaign material to be posted on such bulletin boards. See *Advisory on Political Rights*. Thus, while an employer may prohibit or even institute discipline for such postings, it is not a per se violation of the *Rules* for a candidate, or his supporters, to post campaign material on an employer or Union board. What the protestors appear to argue here is that since they voluntarily refrained from posting, their opponents had an unfair advantage.

The evidence revealed that a supervisor of the employer, Suzanne Balzer, removed three pieces of what she believed to be campaign literature in the early part of February 1991. Ms. Balzer also notified other management employees to take the same action if they saw postings. The investigation found that approximately 50 members a day might have used this room during the period in question.

The Complainants were unable to provide the names of any flight attendants who observed the literature. Nor was there any evidence that the literature was posted for

any substantial period of time. Rather, the evidence is that the material was promptly removed. There was no evidence that members of the Reform and Democracy Slate were responsible for the posting in question. The employer promptly removed the literature when it was posted.

There is no evidence that any member saw the posted campaign materials. The Secure Future Slate did a mailing that went to all Local members in late January 1991. Based upon the foregoing, the evidence is insufficient to demonstrate that the posting on the employer bulletin board may have had an effect on the election. Without a reasonable probability of such an effect, a post-election protest is not viable. Wirtz v Local Unions 410, 410A, 410B & 410C, International Union of Operating Engineers, 366 F 2d 438 (2nd Cir 1966)

The second allegation with respect to campaigning involves distribution of literature in the crew bus shelter in the flight attendant parking lot. The protestors indicate that this activity was reported to have occurred while flight attendants were awaiting the bus to take them to work. Reform and Democracy Slate candidates indicate that they did not campaign nor authorize campaigning in this area. It is not necessary to determine whether such campaigning in fact occurred, since members have the right to engage in campaign activities in non-work areas of their employer's premises during non-work times. Waiting time is clearly non-work time, it is irrelevant that the member is on the clock. See, e.g. *Rules*, Article VIII, § 10(a). A bus shelter is a non-work area. These rights were also clearly set forth in the Election Officer's Advisory regarding Political Rights, which was distributed to, inter alia, all IBT subordinate entities.

The second portion of the protest relates to the remarking and "otherwise chang[e]ing the voters' selections on ballots rejected by the voting equipment in order to force the equipment to accept the ballots." The Protestor Bruce Retrum, when interviewed by the Regional Coordinator, stated that he was not claiming that the voters' intent had been changed. Rather, the protestors believed that the procedure itself, utilized by the Election Officer representatives, was improper.

This procedure, mandated by the Election Officer, required Election Officer's representatives conducting the count to remark ballots which would not be accepted and counted by the electronic voting machine due to the nature of the writing device used by the voter or because the voter used another mark (e.g. circle, check mark) in lieu of the appropriate mark. In such remarking situations, the voter's intent was clear but the voter had not followed the voting instructions.

In addition, there were certain ballots which would not be read by the machine due to excessive folding, cutting of ballots, etc. Election Officer representatives were instructed to remake these ballots according to the original, feed the remade ballot through the machine and staple it to the original. This was the procedure followed by the Election Officer representatives at this election. All candidates and their observers

Bruce Retrum

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were permitted to observe the remarking process. The remarking was proper and in accordance with the *Rules*.

The third portion of this protest alleges that a "significant number of eligible voters did not receive ballots" causing the protestors to question the accuracy and completeness of the eligible membership list used to mail the ballots. The protestors provided the names of seven members who allegedly did not receive ballots. Four of these members, Coune, Dean, Dombrosky and Fuerst, called the Local Union office, were directed to Adjunct Coordinator Marilyn Taylor, and were mailed duplicate ballots on February 7, 1991

Mr Retrum also indicated that members Doody, Smitson and Reardon did not receive ballots. The election mailing list used by the Election Officer, shows these members on the list, although the address provided for Smitson differs from that on the mailing roster. Two additional members, Baye and Senty, are listed as having had their ballots returned to them by the post office, apparently, the post office erroneously returned the ballots to these voters instead of retaining the ballots and placing them in the post office box. Nonetheless, Ms Baye voted, her ballot was received and counted at the election count. Finally, Mr Retrum contends Carole Senty's ballot was returned to her too late to be returned prior to the ballot deadline of February 19, 1991.

The Election Notice distributed to every member of the Local includes instructions for obtaining a ballot or a duplicate ballot if a ballot was not received by February 9, 1991. See also *Rules*, Article VII, § 3(c)(3). In fact, a number of members did call requesting ballots or duplicate ballots. Twenty-four duplicate ballots were mailed. It is precisely due to the possibility that members may be excluded from the roster or not receive their ballot for other reasons that the Election Officer ordered that the Election Notice contain such instructions.

In addition, the regional Coordinator notes that the return rate at Local 2747 was higher than any other mail ballot conducted in Joint Council 32. The rate of return for Local 2747 was 48% as compared to Local 320 (21%), Local 471 (32%), Local 544 (35%) and Local 638 (37%). These figures strongly indicate that there were no significant problems in this Local with respect to the election mailing.

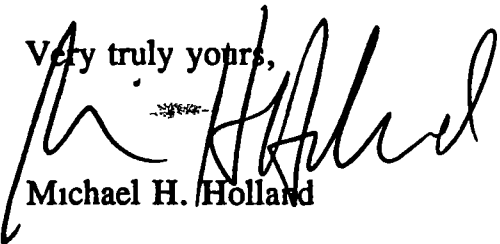
Mr Retrum was questioned by the Regional Coordinator as to the "random sampling of the voters" referred to in the protest. Mr Retrum indicated that the reference was to those persons who had contacted the Union office or members of his slate indicating they had not received ballots. The sum total of those members identified in Mr Retrum's submission was nine. This represents less than one-half of one percent of the original mailing which went to 2,643 persons.

In accordance with the foregoing, the Election Officer determines that the protest neither in whole nor in part demonstrates that the *Rules* were violated with respect to the conduct of the 1991 IBT International Convention delegate and alternate delegate election for Local Union 2747. On this basis, the protests are DENIED in their entirety.

Bruce Retrum  
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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/mjv

cc Frederick B. Lacey, Independent Administrator  
Barbara Z. Quindel, Regional Coordinator