



OFFICE OF THE ELECTION OFFICER  
% INTERNATIONAL BROTHERHOOD OF TEAMSTERS  
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April 3, 1991

**VIA UPS OVERNIGHT**

Mike Hewer  
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Rondal C. Owens  
President  
IBT Local Union 299  
2741 Trumbull Ave.  
Detroit, MI 48216

Pete Camarata  
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Kenneth Bain  
7798 Gartner Ave.  
Detroit, MI 48209

Re: Election Office Case No. Post4-LU299-MGN  
P-196-LU299-MGN  
P-170-LU299-MGN

Gentlemen:

Local Union 299 held its delegate election on January 16, 1991. Prior to the election, Mike Hewer, a member of Local 299, filed a pre-election protest pursuant to Article XI, § 1 of the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("*Rules*") which was deferred by the Election Officer pursuant to Section 1 (a)(4)(b) of Article XI of the *Rules*. Pete Camarata, a member of Local 299 and a candidate for delegate, also filed a pre-election protest which was similarly deferred by the Election Officer. Subsequent to the election, Mr. Camarata and Kenneth Bain filed a post-election protest. The two pre-election protests referred to above and the post-election protest filed by Mr. Camarata and Mr. Bain are the subject of this decision.

Local 299 held a mail ballot election and the ballots were counted on January 16, 1991. Local 299 was entitled to elect ten delegates and four alternate delegates to the 1991 IBT International Convention. The tally of ballots cast and counted reflects that the tenth ranked delegate candidate received 1,248 votes and the eleventh ranked delegate

candidate, Mr Camarata, received 955 votes.<sup>1</sup> Thus, the difference between the tenth and eleventh ranked candidates was 293 votes. The results of the alternate delegate tally was that the fourth ranked candidate received 1,296 votes and the fifth ranked candidate received 937 votes. The margin between the fourth and fifth ranked candidates for alternate delegate therefore was 359 votes.<sup>2</sup>

Article XI, § 1 (a)(4)(b) of the *Rules* provides that the Election Officer upon receipt of a pre-election protest shall evaluate the protest and may defer making a determination until after the election. Such a deferral thereby treats the protest as a post-election protest governed by Subsection (b) of Article XI, § 1 (b). Article XI, § 1 (b) of the *Rules* provides that post-election protests shall only be considered and remedied if the alleged violation may have affected the outcome of the election. These protests were determined under the parameters of Article XI, § 1 (b)(2) of the *Rules*.

### I. The Protest of Mike Hewer.

Mr Hewer in his protest (P-170-LU299-MGN) complains that an employer of Local 299 members, Union Stationers, Inc, refused to allow him to post campaign materials on the bulletin board or to leaflet cars in an open parking lot. Mr. Hewer is not employed by Union Stationers

Union Stationers employs 93 members of Local 299. Local 299 has over 7500 members. The membership at Union Stationers is less than 1.3% of this total. Mr. Hewer does not contend, and the Election Officer does not find, that he was denied all access to the members employed at Union Stationers. Rather, he contends that he was not permitted access to the interior of the facility, a right Mr. Hewer, not employed by Union Stationers, does not have absent discrimination, which the Election Officer finds did not occur.<sup>3</sup> See Advisory on Political Rights. Further, the slate of candidates with which Mr Hewer was connected, which included Messrs. Camarata and Bain, had campaign contact with the membership employed by Union Stationers; one mailing was made by such slate to all Local 299 members.

Given the small number of members employed by Union Stationers, the other access to such members and the size of the margins between winning and losing candidates, the Election Officer does not find a meaningful relationship between the alleged violation and the results of the election. See Wirtz v. International Union of

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<sup>1</sup>Mr Bain was also a delegate candidate and received 888 votes placing him as the 13th ranked candidate

<sup>2</sup>The challenges to two hundred and twenty-seven ballots remained unresolved at the time of the tally. *Rules*, Article XII, § 5 (d) (challenges to voter eligibility need not be resolved where number of challenged ballots insufficient to affect outcome).

<sup>3</sup>Mr Hewer also contends that he was not permitted to place campaign literature on cars in the employee parking lot.

Operating Engineers, 366 F 2d 438 (2nd Cir., 1966). Since Mr. Hewer's protest was deferred to post-election consideration and since there is no reasonable probability that the alleged violation, if valid, could have affected the results of the election, the protest is denied with respect to the issue of the certification by the Election Officer of the results of the delegate and alternate delegate election of Local 299.<sup>4</sup> See Dole v. U.S. Mail Handlers, 132 LRRM 2299 (M.D. Ala, 1989).

## II. The Pre-Election Protest of Mr. Camarata.

The pre-election protest filed by Mr. Camarata (Election Office Case No. P-196-LU299-MGN) alleges that the Local violated the *Rules* by mailing the December, 1990 edition of its newsletter at the same time as the ballots for the delegate election were mailed. He contends that the newsletter aided the incumbent Local Union officers who were seeking election as delegates and alternate delegates on the Ron Owens Rank and File Slate.

The Election Officer has conducted an investigation of this protest. The investigation revealed that the ballots for the Local 299 election were mailed on or about December 26, 1990. The Local Union December, 1990 newsletter was mailed on or about December 20, 1990. The Local 299 newsletter is normally mailed toward the end of the month. The mailing house which distributes the Local 299 newsletter advised the Election Officer that the September, 1990 newsletter was mailed on September 26, the October, 1990 newsletter was mailed on October 27, the November, 1990 newsletter was mailed November 23 and the December, 1990 newsletter was mailed December 20. The Local states that the November and December newsletters were mailed earlier than the September and October newsletters due to the holidays. The date of distribution of the December, 1990 edition of Local 299's newsletter was in accord with the normal pattern of distribution dates in the months prior to December, 1990.

A comparison of the December, 1990 newsletter to the prior issues of the newsletter mentioned above shows that the December newsletter does not differ in terms of the content or pictures from prior editions. Only one photograph of Ron Owens, President of Local 299 and head of the Ron Owens Rank and File Slate, appears, as part of his regular column to the membership. Prior editions of the newsletter have carried multiple pictures of Mr. Owens. Even the traditional "Seasons Greetings" is devoid of photographs.

Thus, the December, 1990 newsletter does not violate Article VIII, § 7 of the *Rules*. Further, the Election Officer does not find that the date of the distribution of the newsletter was other than in the normal course based upon the distribution dates of the newsletter in the months prior to the December, 1990 issue. Accordingly, the protest

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<sup>4</sup>However, the Election Officer does not consider this protest moot since the same issue may arise in connection with the upcoming International Officer election. Thus, the protest will be determined on its merits in a separate decision in anticipation of the International elections.

of Mr. Camarata on this issue is DENIED. See also In Re Barclay, 91-Elec App.-111 (SA).

### III. The Post-Election Protest of Mr. Bain.

Mr. Camarata and Mr. Bain also filed a post-election protest complaining of the following: (1) the ballot packages did not indicate on the outer envelope that election material was enclosed, the voting instructions were unclear and the return addressee for the cast ballots was identified as Teamsters Local 299; (2) the worksite lists furnished by the Local were not up to date, thirteen employers listed were no longer in business and the Local may have omitted some employers; (3) there was a discrepancy between the number of ballots certified as printed by the printer and the number of unused ballots, (4) the mailing house used for the mailing of the ballots employs Local 299 members, (5) the challenges to the ballots were not resolved nor were challenged ballots counted, (6) candidates were not given the opportunity to observe the printing of the ballots, the proofing of the ballots or the destruction of the plates used for the printing; and (7) employees of Dollar Rent A Car were not mailed ballots and given the opportunity to vote. Each group of allegations is treated separately below.

#### 1. The Ballot Package

The first basis of the post-election protest concerns the appearance of the ballot package, the clarity of the voting instructions and the designation of Teamsters Local 299 as part of the address on the mail ballot return envelopes.

Mr. Camarata and Mr. Bain contend that the failure of the outside of the envelope of the mail ballot packet to advise the recipient that a ballot was contained led to Local 299 members discarding the package and not participating in the election. No evidence was offered to support this contention. Further, all members of the Local were made aware of the date on or about which the mail ballot packets were to be mailed. The election notice, contained in the October issue of the Local 299 newsletter and sent to each Local 299 member at his/her home address, expressly advised members that "[a]ny eligible member not receiving a mail ballot within ten days prior to January 16, 1991 should contact the office of the Election Officer, care of Regional Coordinator Jim De Haan, 7192 Pebble Park Drive, West Bloomfield, Michigan 48322 . . ." The Election Rules also provide that any eligible member who does not receive a ballot should contact the Election Office or its representative. Rules, Article XII, § 3 (c)(3). Only twenty-four members made such requests for ballots from the Regional Coordinator, who responded to those requests promptly. There is simply no factual support for the contention that Local 299 members discarded the mail ballot packets, and thus did not vote, because the outer envelope of such packets did not announce that a ballot was inside.<sup>5</sup> See, In re. Lichtman et al., 91-Elec App -109.

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<sup>5</sup>The Local Union has approximately 7600 members, over 2700 ballots were cast in this election, a return of approximately 36%. In the last delegate and alternate delegate election conducted with respect to Local 299, conducted in 1986, 30% of the membership voted.

Neither was any evidence proffered by the protestors to suggest that members of Local 299 failed to vote because the mail ballot return envelope included Teamsters Local 299 in the return address. The voting instructions contained in the mail ballot packet specifically stated that "[t]he Court-appointed Election Officer will receive, determination voter eligibility and count the ballots." The election notice contained similar information. The campaign mailing sent by Mr. Camarata's and Mr. Bain's slate reiterated that "[v]oting is secret and conducted by a court appointed election officer." Finally, the ballot return envelope, while including Teamsters Local 299 in the return address, is not addressed to the Local 299 office but to a Post Office Box under the exclusive control of the Election Officer. There is no factual basis for concluding that Local 299 members failed to vote because they believed that their ballots would be received or counted by the Local and not the Election Officer.

A review of the voting instructions contained in the mail ballot packet does not demonstrate that the instructions were confusing. No evidence was presented that members were confused, did not vote, or voted improperly, because they did not understand the voting instructions. The number of void ballots, 188, is not so large as to suggest that Local 299 members were confused. Moreover, the overwhelming majority of these ballots were voided due to missing identification labels or the failure of the voted ballot to be contained in a secret ballot envelope. There is not even an allegation that the instructions with respect to these issues was confusing.

The Election Officer does not find that the mail ballot packet, the return ballot envelope or the voting instructions violated the *Rules* or had any impact on the outcome of this election. Therefore, this portion of the post-election protest is denied.

## 2. Worksite Lists

The second basis for the post-election protest concerns the worksite lists requested by Mr. Camarata and supplied by the Local Union. Article VIII, § 1 of the *Rules* provides that each delegate candidate has the right to inspect and make notes from collective bargaining agreements covering any members of his Local Union and that said right may be satisfied by the Local Union providing a worksite list. Messrs. Camarata and Bain state that there were several employers on the worksite list that were no longer in existence. Thus, the complaint is that the worksite list provided excess information, not that the worksites of any employers of Local 299 members were omitted.

The Local Union states that it did include on the worksite list some employers that were in the process of going out of business, decertifying or moving, in an attempt to be overinclusive rather than incomplete. The number of employers contained in the list that Mr. Camarata contends were no longer employers of Local 299 members was 13 out of approximately 235 total worksites. The Election Officer does not find that the

mail house While observers were present when the ballots were delivered to the mail house for processing and from the mail house to the Post Office, no candidate exercised his or her right to observe the work done at the mail house.

Mr. Camarata has presented no evidence of any improprieties occurring at American Mailers. The Election Officer investigation uncovered no irregularities. Therefore, there is no evidence to suggest that the use of American Mailers was inappropriate or violated the *Rules*.

#### **5. Ballot Challenges**

Mr. Camarata also contends that challenged ballots were not counted nor were the challenges determined. The number of challenged ballots not counted was 227. The margin between the lowest ranked winning candidate and the highest ranked losing candidate was 293 votes. Therefore, the challenged ballots would not have affected the outcome of the election and were not counted<sup>7</sup> No violation of the *Rules* occurs by the failure to count challenged ballots in this situation

#### **6. Observers At Printing**

Mr Camarata complains that candidates were not given the opportunity to observe the printing of ballots, verify the plates were destroyed or permitted or observe ballots being proofread Each candidate was advised in writing at the nominations meeting that they were entitled to observe or have observers present at all stages of the ballot preparation and mailing process, including the printing of the ballots. The Regional Coordinator remembers specifically that Mr Camarata was given a copy of that letter. No candidate requested to be present or to have an observer present at the printing of the ballots. Thus, the failure to have an observer during the printing of the ballots is not a violation of the *Rules* nor the fault of the Election Officer but was the choice of the individual candidate.

#### **7. Dollar Rent-A-Car**

Finally, Mr Camarata contends that employees of Dollar Rent-A-Car were not mailed ballots or given the opportunity to vote. This matter was determined by the Election Officer in Case No P-260-LU299-MGN, wherein the Election Officer found that the employees of Dollar Rent A Car were not members of Local Union 299. Although Local Union 299 has been recognized as the representative of these employees, none of the employees of Dollar Rent A Car have voluntarily joined the Union and there is no collective bargaining agreement with the employer requiring them to become Union members.

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<sup>7</sup>Initially, there were 330 challenged ballots The Election Officer instructed the Regional Coordinator, Jim De Haan, in conformity with his instructions for other vote counts, that he could resolve the challenges in groups, provided of course that each grouping was sufficiently large to insure the secrecy of the ballot. Mr De Haan thus resolved and counted, as a group, 103 of the challenged ballots. The remaining challenges were insufficient to affect the outcome of the election and thus remain unresolved and uncounted.

Mike Hewer  
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Thus, failure to send ballots to those employees of Dollar Rent A Car is not a violation of the *Rules*. None of the employees were eligible to vote. Further, only twenty-five persons are employed at Dollar Rent-A-Car, the failure to send ballots to those members would not have affected the outcome of the election.

#### IV. Conclusion.

In accordance with the foregoing, all protests are DENIED. The Election Officer finds no basis for setting aside the 1991 IBT International Union delegate and alternate delegate election conducted for Local 299. No violations of the *Rules* occurred which may have affected the results of the election and thus all protests are DENIED. *Rules*, Article XI, § 1 (b)(2).

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/mca

cc. Frederick B Lacey, Independent Administrator  
James De Haan, Regional Coordinator



APR 12 1991

299/mgn

IN RE:

MIKE HEWER,  
 PETE CAMARATA,  
 KENNETH BAIN,

and

IBT LOCAL UNION 299

91 - Elec. App. - 123 (SA)

DECISION OF THE  
INDEPENDENT  
ADMINISTRATOR

XMH  
BJH  
JS  
DeHAAN

This matter arises out of a appeal from an April 3, 1991, decision of the Election Officer issued in Case Nos. Post4-LU299-MGN, P-170-LU299-MGN and [REDACTED]. A hearing was held before me by way of telephone conference on April 10, 1991, at which the following persons were heard: John J. Sullivan, on behalf of the Election Officer; James DeHaan, the Regional Coordinator; the complainants, Peter Camarata, Kenneth Bain, and Mike Hower; and Rondal Owens, the President of Local 299. In addition, Barbara Hillman from the Election Office audited the hearing.

**BACKGROUND**

The Election Officer's decision decided two pre-election protests and one post-election protest. The Election Officer, pursuant to the Rules For The IBT International Union Delegate And Officer Election (the "Election Rules"), deferred making a determination on the two pre-election protests until after the

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completion of Local 299's delegate and alternate delegate elections. See Election Rules, Article XI, Section 1.a.(4)(b). The Election Rules are clear in the treatment to be accorded post-election protests. Pursuant to Article XI, Section 1.b.(2):

Post-election protests shall only be considered and remedied if the alleged violation may have affected the outcome of the election.

The complainants are all members of Local 299 and were all candidates for delegate to the 1991 IBT International Convention on the same slate -- the "Working Teamsters" Slate.

As explained in the Summary of the Election Officer:

The ballots for the election of delegates and alternates in Local 299 were mailed out on December 26, 1990. They were counted on January 16, 1991.

Local 299, which has over 7,500 members, elected 10 delegates and four alternates. Over 2700 ballots were cast, a return of about 36 percent. When Local 299 elected delegates for the last prior International Convention, in 1986, the return was lower: 30 percent.

The margin of victory was quite large. The winning delegate with the fewest number of votes (1248 votes) had 293 votes more than the losing delegate with the largest number of votes (Mr. Camarata with 955 votes). The winning alternate with 1296 votes placed 359 votes ahead of the losing alternate with the largest number of votes.

#### UNION STATIONERS, INC.

In his pre-election protest, Mr. Hewer alleged that he was denied access Union Stationers, Inc.'s bulletin board. Union Stationers employs about 93 members of Local 299. Mr. Hewer also alleged that he was not permitted to place campaign material on cars in the employee parking lot at Union Stationers. Mr. Hewer is not an employee of Union Stationers.

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The Election Officer's decision regarding the bulletin board was explained in his Summary:

Regarding the employee bulletin board, the Election Rules provide that no restrictions may be placed on employees' pre-existing rights to use a bulletin board for campaign purposes. Article VIII, Section 10(d) of the Rules. However, in Mr. Hewer's case, the Election Officer determined that Mr. Hewer does not have any pre-existing right of access to the bulletin boards.

At the hearing, nothing was offered to challenge the Election Officer's decision regarding the bulletin board. Thus, that portion of the Election Officer's ruling is affirmed.

As for the complaint regarding access to the employee parking lot, the Election Officer found that it was unnecessary to resolve this protest. As noted by the Election Officer in his Summary:

The total complement of employees at Union Stationers is 93. The margin between the lowest winning candidate for delegate and the highest losing candidate was 293 votes. Even assuming Mr. Hewer had been allowed to distribute campaign material in the parking lot, and even assuming all 93 employees of Union Stationers voted for Mr. Hewer and his slate, the violation alleged could not have affected the election.

The Election Officer's treatment of this portion of Mr. Hewer's protest is affirmed. There was no need for the Election Officer to reach the merits of this protest on a post-election basis. It should be noted, however, that the Election Officer did not find the protest moot since the elections for IBT International Officers has yet to be concluded. Thus, the Election Officer indicated that he will issue a future decision on Mr. Hewer's protest, but only with respect to the International Officer election.

## THE NEWSLETTER

Mr. Camarata's pre-election protest concerned the Local's monthly newsletter. Mr. Camarata challenged the fact that the Local mailed its newsletter at or about the same time that the election ballots were mailed. Mr. Camarata also contended that the newsletter was unduly favorable to the incumbent officers, who are also candidates for delegate.

The Election Officer thoroughly examined the December 1990, newsletter -- this is the newsletter in question. As observed by the Election Officer:

The December 1990 issue of the newsletter is not in violation of the Rules. A comparison with earlier issues of the newsletters in September, October and November shows that it does not differ significantly from the previous issues. If anything, the December issue contained fewer pictures of incumbent officers than had appeared previously. Only one photo of Ron Owens, President of the Local, appears with his regular column to the membership, whereas other issues featured multiple photos. The traditional "Season's Greeting" message from the officers and staff of the Local to the membership was published without a picture.

In addition, the Election Officer found that the timing of the mailing of the newsletter consistent with the past practice of the Local.

Accordingly, the Election Officer determined that the Local did not violate the Election Rules by either the content or the timing of the mailing of the December 1990, newsletter. The Election Officer's decision regarding Mr. Camarata's protest is affirmed for the reasons expressed by the Election Officer.

**WORKSITE LISTS**

The first issue raised in the post-election protest concerns the Local's alleged failure to comply with Article VIII, Section 1. of the Election Rules. This provision provides candidates with the right to inspect collective bargaining agreements or alternatively to be furnished with worksite list information by the Local. In this case, Local 299 supplied the complainants with worksite list information. The complainants allege that the provided worksite list included 13 employers who were either going out of business, moving or decertified the Local as bargaining representatives.

The Election Officer did not find that the Local violated its obligation under the Election Rules by overincluding 13 employers in its worksite list. Information concerning 235 worksites were supplied. The Election Officer refused to find a violation of the Election Rules in this instance given that the Local appears to have exercised an excess of caution in an attempt to include all worksite information. The Election Officer did not find that the Local acted intentionally to include false information in its worksite list to unduly burden the complainants.

The complainants also alleged that two employers, Commuter Transportation and Dollar Rent-A-Car, were omitted from the worksite list. The Election Officer's independent review of the worksite list revealed that the Local did, in fact, include Commuter Transportation on the list. Further investigation disclosed that Dollar Rent-A-Car was not a party to a collective bargaining agreement with Local 299 at the time. The determination

regarding Dollar Rent-A-Car is consistent with a January decision of the Election Officer in Case No. P-260-LU299-MGN. That decision was not appealed to the Independent Administrator, and is thus res judicata here.

#### THE PROCESSING OF THE BALLOTS

The Election Officer's ruling on the worksite list issues is affirmed for the reasons expressed by the Election Officer.

The remainder of the complainants' post-election protest concerns alleged improprieties in the ballots and the processing thereof.

The complainants first alleged that the envelopes, which carried the ballots to the members, did not contain a notice on the face of the envelope that a ballot was enclosed. The complainants argued that this caused perspective voters to disregard and discard the ballots. The Election Officer found that "there is no evidence whatsoever for this speculation." I agree.

First, the percentage of ballots returned in this election exceeds that of the last election for delegates conducted by his Local.<sup>1</sup> Moreover, as explained by the Election Officer:

[A]ll members were advised through the October 1990 newsletter sent to the home address of each member of the Local that "[a]ny eligible member not receiving a mail ballot within ten days prior to January 16, 1991" should contact the Election Officer or his representative. Similarly, the Election Rules provide that members not receiving ballots should contact the Election Office or its representative. Article XII, Section 3(c)(3). Only

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<sup>1</sup> This Local is unusual in that it has conducted secret ballot elections for delegates in the past.

24 members of the Local made a request for a ballot, and these requests received immediate response.

In the absence of any factual support of complainants' contentions, I refuse to assume, like the Election Officer, that ballots were routinely discarded by IBT members who intended to vote. This ruling is in accordance with the Independent Administrator's decision in In Re: Lichtman, Decision of the Independent Administrator, 91 - Elec. App. - 109 (March 26, 1991).

The complainants also alleged that many members may have disregarded the ballots or not voted because the return address on the envelope listed "Teamsters Local 299" and a Post Office Box. The complainants suggest that this misled members into believing that representatives of the Local would be receiving or counting their ballots. Again the protesters have no supporting evidence for this conjecture. As explained by the Election Officer:

Moreover, the Local's members were advised time and time again that they would be voting by secret ballot under the supervision of the Election Officer. The voting instructions contained in the mail ballot specifically stated that "[t]he Court-appointed Election Officer will receive . . . and count the ballots." Even if a member failed to open the ballot envelope, the notice of election and the Election Rules (Art. XI, § 5(a)) notify members that ballots will be counted by the Election Officer or his representative. Indeed, the protesters themselves reiterated the secrecy of the ballot in a campaign mailing to the members: "Voting is secret and conducted by a court appointed election officer."

The complainants also allege that members failed to vote because they did not understand the voting instructions in the package. The Election Officer rejected this contention relying on the number of ballots marked as void. There were only 188 such

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ballots. This number is not so large as to suggest that there was a great deal of confusion in the voters' minds.

The complainants further contend that the election was tainted by the actions of the printer of the ballots and the mailing house. Regarding the printer, the complainants relied on the fact that the printer certified that 8,000 ballots had been printed, when in fact a greater number was actually printed. The complainants suggest that the additional ballots printed may have been used to alter the outcome of the elections. What the complainants failed to recognize, however, is that the Election Officer accounted for every single ballot printed.

Complainants also contend that they were not provided the opportunity to observe the printing of the ballots. The Election Officer rejected this contention. The Election Rules specifically provide that all candidates have the right to observe "each and every phase of the . . . election process," including the preparation of the ballot prototype before it is printed. Election Rules Article IX, at pp. 60, 62. The candidates were also advised in writing at the nominations meeting of their observers' rights. Still further Mr. Camarata was given written notice to that effect on behalf of his slate. No candidate, including any of the complainants, exercised their right to observe.

Accordingly, the Election Officer refused to find a violation regarding the printing and preparation of the ballots. The Election Officer's decision in this regard is affirmed for the reasons expressed by the Election Officer.



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THE MAILING HOUSE

Regarding the mailing house, the complainants alleged that the mailing house employed members of Local 299 and thus the entire mailing process must be deemed improper and in violation of the Election Rules. The complainants ignore the fact that all work performed at the mailing house, as well as in every other stage of the ballot process, was performed under the exclusive direction and supervision of the Election Officer. Furthermore, the Election Rules granted every candidate the right to observe the entire process. As we now know, no candidate exercised that right.

The Election Officer did not discover any irregularities in the mailing process. Moreover, despite their protest, the complainants do not point to any such irregularities. Accordingly, the Election Officer's denial of this portion of the complainants protest is also affirmed.

CHALLENGED BALLOTS

The last contention raised by the complainants is the Election Officer's handling of the challenge ballots. The Election Rules provide at Article XII, Section 5.d.:

With respect to delegate elections, all unchallenged ballots shall be counted first. In the event that any candidate attains a margin of victory greater than the number of challenged ballots left to be counted, the count shall cease with respect to such candidate. However, if such is not the case for all candidates, all challenges shall be resolved and those challenged ballots resolved in favor of eligibility counted. . . .

Initially there were 330 challenged ballots. The Election Officer resolved a group of 103 related challenge ballots and

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counted them. The remaining 227 ballots were left uncounted because they were insufficient to affect the outcome of the election since the margin of victory was 293 votes. The Election Officer's treatment of the challenge ballots was in full accordance with Article XII, Section 5.d. of the Election Rules.

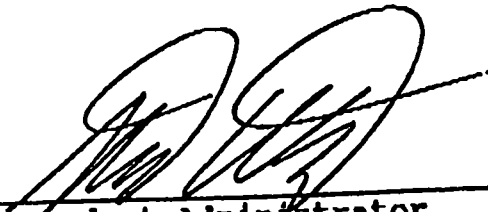
~~The complainants argue that to determine whether or not the~~ alleged violations of the Election Rules raised in their election protests "may have affected the outcome of the election," all challenged ballots should have been counted. The complainants suggest that the only way to get an accurate assessment of how close the election actually was is to resolve all the challenged ballots. In dismissing this argument two observations are in order. First, the Election Officer did not find any violation of the Election Rules, thus, there was no need to make a determination whether or not the alleged violations may have effected the outcome of the election. A determination as to whether or not an election may have been affected only needs to be made when a violation of the Election Rules is found. That is simply not the case here.

Second, if the complainants' rationale were to be accepted, all challenged ballots in every election would need to be resolved in the event a post-election protest is filed. This would put an undue and unnecessary burden on the Election Officer. The Election Rules are clear that challenged ballots need not be considered if the margin of victory is greater than the number of challenged ballots.

Accordingly, the Election Officer's treatment of the challenged ballots is affirmed.

**CONCLUSION**

The Election Officer's ruling is affirmed in all respects.




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Independent Administrator  
 Frederick B. Lacey  
 By: Stuart Alderoty, Designee

Dated: April 11, 1991