



OFFICE OF THE ELECTION OFFICER
% INTERNATIONAL BROTHERHOOD OF TEAMSTERS
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Michael H. Holland
Election Officer

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April 25, 1991

VIA UPS OVERNIGHT

John J. Cantwell
9 Pine Tree Trail
Rush, NY 14543

Frank J. Posato
President
IBT Local Union 118
1600 Lyell Ave.
Rochester, NY 14606

Anthony Valenti
125 Lightwood La
Rochester, NY 14606

Re: Election Office Case No. Post-56-LU118-PGH

Gentlemen:

A post-election protest was filed pursuant to Article XI of the *Rules* by Vincent Moyer, counsel for John Cantwell, an unsuccessful candidate for 1991 IBT International Convention delegate from Local 118. The protest alleges that the successful candidates, who are Local Union Officers, threatened and assaulted Mr. Cantwell at the polling place in violation of the *Rules*.

Local Union 118 held its delegate election March 15, 1991. The election was conducted by in-person voting exclusively except for those members who requested absentee ballots. The polling place was located at Dandras Party House, 1713 Lyell Avenue in Rochester, New York. The polls were open from 6.00 am to 9 00 pm. The Local elected two delegates and two alternate delegates to the IBT International Convention. The alternate delegate race was uncontested. The tally of ballots for delegate was as follows.

Frank Posato	420
Tony Valenti	341
John J. Cantwell	265

John J. Cantwell, the third ranked delegate candidate, filed a post-election protest requesting that the Local 118 delegate election be rerun due to violence directed against him that occurred at the polling place during and after the ballot count. The protest also alleges, after the election, that Mr. Cantwell and his family were threatened with further

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violence and he was specifically warned against future participation in Local Union matters.

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. The protest filed by Mr. Cantwell on its face complains of conduct which occurred after voting had been completed. The Regional Coordinator who was present at the election, William Kane, has advised the Election Officer that during the actual voting, that is between the hours of 6 00 am and 9 00 pm, there was no violence or threats of violence, or for that matter, any disturbance whatsoever at the election site. No evidence has been presented by the protestor to suggest that any such conduct occurred during the actual voting period. Thus, the Election Office determines that the conduct complained of in the protest could not have affected the outcome of the election and denies this protest as a post-election protest.

Although the Election Officer finds that the outcome of the election is not affected by the conduct as alleged in the protest, the allegations, if found to be substantiated by an investigation, constitute an extremely serious violation of the *Rules*. Thus far, the investigation discloses that there was a fight which occurred in the bar which was in the same building as the polling place during the time of the count and continuing after the completion of the count. The police were called and several criminal complaints were filed. Further, Mr. Posato and Mr. Valenti have both submitted statements to the Election Officer acknowledging the altercations occurred but contending that the altercations were initiated by supporters of Mr. Cantwell. Mr. Cantwell has also filed a criminal complaint against persons unknown for telephone threats received by him after March 15, 1991 warning him against any future involvement in the Local.

The Election Officer determines that further investigation into both the altercations that occurred on March 15, 1991 and the threats Mr. Cantwell alleged that he received after that date is warranted. Accordingly, the Election Officer has forwarded all of the materials he has received with respect to these incidents to the court-appointed Investigations Officer.

Accordingly, the post-election protest to the extent that it requests a rerun election is DENIED. To the extent the post-election protest alleges conduct which is in violation of the *Rules*, the Election Officer has not made a final determination as to whether the *Rules* have been violated, but will continue to receive information concerning those allegations and be available to the Investigations Officer as is necessary. A separate determination will be made by the Election Officer following the conclusion of that investigation.

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

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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
William B Kane, Regional Coordinator
Charles M. Carberry, Investigations Officer