



OFFICE OF THE ELECTION OFFICER
% INTERNATIONAL BROTHERHOOD OF TEAMSTERS
25 Louisiana Avenue, NW
Washington, DC 20001

Michael H. Holland
Election Officer

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April 30, 1991

VIA UPS OVERNIGHT

John Bryan
c/o The Rank & File
Slate (for Ron Carey)
109 Crocus
Lake Jackson, TX 77566

Richard Hammond
President
c/o The Hammond
Leadership Team Slate
Teamsters Local 988
3100 Katy Freeway
Houston, TX 77270

Re: Election Office Case No. Post-66-LU988-SOU

Gentlemen

A post-election protest was filed pursuant to Article XI, § 1 of *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("Rules") by John Bryan, an unsuccessful candidate for delegate from Local 988. Mr. Bryan requests that the Election Officer review all protests filed during the election process, in particular the protest filed concerning the posting of the results of the nominations meeting (Election Officer Case No. P559-LU988-SOU) and the protest concerning the conduct at a general membership meeting which occurred on March 17, 1991 (Election Officer Case No. P688-LU988-SOU). Mr. Bryan contends that these two protests in particular may have affected the outcome of the election and asks that the election be rerun.

Local Union 988 held its delegate election exclusively by mail ballot. The ballots were mailed on or about March 12, 1991 and were counted on March 28, 1991. The Local elected five delegates and two alternate delegates to the IBT International Convention. The tally of ballots was as follows:

Delegate Candidates

No. of Votes

Leadership Team Slate

| | |
|--------------------|-----|
| Richard A. Hammond | 687 |
| Louis G. Stewart | 675 |

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| | |
|---------------------|-----|
| R J "Joe" Canales | 670 |
| Glen R Redding | 669 |
| Emmit Armstrong, Jr | 655 |

Rank and File Slate

| | |
|-------------------------|-----|
| Henry "Hank" Steger | 478 |
| Bobby Phillips | 461 |
| John P Bryan | 457 |
| William "Bill" Fleegeer | 455 |
| Napoleon Allen | 430 |

Independent Candidate

| | |
|------------------|----|
| Timothy Gonzales | 61 |
|------------------|----|

Alternate Delegates

Leadership Team Slate

| | |
|----------------|-----|
| Johnny Johnson | 661 |
| Judy A Doerr | 644 |

Rank and File Slate

| | |
|------------------------|-----|
| Rudolph "Rudy" Saucedo | 490 |
|------------------------|-----|

Independent Candidate

| | |
|------------|-----|
| Earl Daily | 463 |
|------------|-----|

Thus, the margin between the fifth ranked delegate candidate and the sixth ranked delegate candidate was 177 votes. The margin between the second and third ranked alternate delegate candidates was 154 votes.

Mr Bryan, as a candidate for delegate, was affiliated with the Rank and File Slate for Ron Carey. Prior to the date of the count, members of that slate filed six pre-election protests which were the subject of determinations by the Election Officer. Three of the six, specifically Election Office Case Nos P-538-LU988-SOU, P-670-LU988-SOU and P-688-LU988-SOU, were denied by the Election Officer. No appeals were filed from those decisions. The Election Officer declines to reopen or further investigate these protests.¹

¹In his determination of Election Officer Case No P-688-LU988-SOU the Election Officer specifically notes that the allegations of that protest which involved the Local's membership meeting of March 17, 1991, were identical to the allegations concerning that

Of the remaining three pre-election protests, two concerned rights to engage in political activities on the premises of an employer of Local 988 members, Houston Dairy, Election Office Case Nos P-4127-LU988-SOU and P-436-LU988-SOU. Houston Dairy employs 38 IBT members who were eligible voters in the delegate election. Since the margin between the fifth and sixth ranked delegate candidate and the second and third ranked alternate delegates candidates was far in excess of 38 votes, being 177 and 154 respectfully, any violation of the *Rules* by Houston Dairy could not have affected the outcome of the election. Article XI, § 1 (b)(2) 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." Thus, this portion of the post-election protest is DENIED.

The remaining pre-election protest which Mr. Bryan alleges may have affected the outcome of the election concerned the posting of the nomination meeting results by the Local Union (Election Office Case No P-559-LU988-SOU). In his decision in that case, the Election Officer found that the Local had violated the requirements of the *Rules* in preparing and posting the results of the nominations meeting in two ways. First, the posting bore the signature of Richard Hammond, as President of the Local. Since Mr. Hammond was a candidate for delegate, the posting was improper. See Advisory on Posting Nomination Results. Additionally, the posting failed to note the slate affiliation of the candidates on the Rank and File Slate as required by the Advisory on Posting Nomination Results.

The investigation of that protest revealed that the notice of the results of the nominations meeting was posted on Union bulletin boards, on Local 988 letterhead, signed by Richard A. Hammond, identified as President-Business Manager of the Local. The nominated candidates were listed in order of nomination. The first name on the notice was the Leadership Team Slate. Below that was a list of five delegate and alternate delegate candidates, all members of the Leadership Team Slate, and the notation that all were nominated as a slate. The remaining candidates for delegate and alternate delegate were listed below the Leadership Team Slate. Beside each name was the notation that the candidate was nominated as an individual.

James Graef, a member of Local 988, filed a protest concerning the posted notices, that protest was granted by the Election Officer. Upon the issuance of the determination letter of the Election Officer, the Local Union revised the posting as directed and posted the revised notice on all Union bulletin boards as required by the *Rules*. The revised notice was posted on March 12, 1991 on or about the day the ballots were mailed.

Pursuant to Article XI, § 1 (b) of the *Rules*, a violation of the *Rules* alone is not grounds for setting aside an election. There must also be a reasonable probability that

meeting contained in his post election protest. The decision in that case specifically stated that it constituted a denial of the identical allegations of this protest. The Election Officer's decision in P-688-LU988-SOU was not appealed.

the outcome of the election may have been affected by the violation Wirtz v. Local Unions 410, 410(A), 410(B) & 410(C), International Union of Operating Engineers, 366 F 2d 438 (2nd Cir 1966) To determine whether an effect exists, the Election Officer determines whether mathematically the effect was sufficient in scope to affect the outcome of the election and/or whether there is a causal connection between the violation and the result or outcome of the election Dole v. Mailhandlers, Local 317, 132 LRRM 2299 (D C M D Alabama 1989) Since the Election Officer has already determined that the *Rules* have been violated by the Local, the issue then becomes whether said violation affects the outcome of the election For the reasons set forth below, the Election Officer determines that it did not

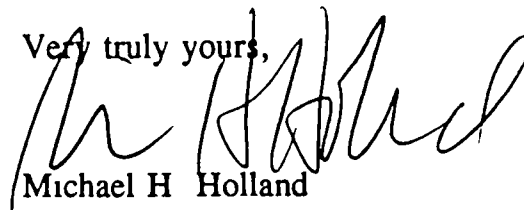
In the first instance, the corrected posting of the nominations results was in place at the time of the receipt of ballots by members Secondly, candidates affiliated with the Rank and File Slate campaigned as a slate Their campaign included two mailings to Local 988 members, the literature mailed identified each candidate as a member of the Rank and File Slate The first such mailing was completed on or about February 28, 1991 to all members employed by UPS, the largest employer of IBT members in the Local The second mailing was made to all Local 988 members and was accomplished on or about the date the ballots were mailed Therefore, all members were certainly advised by the Rank and File candidates themselves and also by the Local prior to any member receiving a ballot as to the proper affiliation of candidates on the Rank and File Slate Thus, the Election Officer does not find that the failure to include the slate affiliation of the Rank and File candidates on the initial notice of the results of the nominations meeting to have affected the outcome of the election

Finally, the Election Officer does not find that the inclusion by Mr Hammond of his office on the initial notice of the results of the nominations meeting could have affected the outcome of the election Obviously, the membership was aware of Mr Hammond's position within the Local The membership was also aware that his candidacy as a delegate was opposed by other candidates including those affiliated with the Rank and File Slate Although Mr Hammond technically violated the *Rules* as set forth in the decision in Election Officer Case No P559-LU988-SOU, it is not probable that said violation affected the outcome of the election Accordingly, the protest is DENIED in its entirety

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

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Very truly yours,

A handwritten signature in black ink, appearing to read "Michael H. Holland". The signature is written in a cursive style with a large, prominent initial "M".

Michael H Holland

MHH/mjv

cc Frederick B Lacey, Independent Administrator
Larry R Daves, Regional Coordinator