



The post-election protest states that certain ballots were ripped and torn, taped back together but nevertheless, allegedly improperly, counted. The Regional Coordinator for the New England Region, Elizabeth A. Rogers, who personally supervised the entirety of this election including the ballot count, affirms that the slitting machine utilized in opening the ballot envelopes, in fact, slit or cut 55 ballots. The fact that certain ballots were cut did not compromise the secrecy of the balloting process. To prevent voter disenfranchisement, the tears on these ballots were repaired and the ballots counted.

Further, to resolve this protest, the Election Office recounted the ballots for Local 55's delegate and alternate election, eliminating from such count the 55 ballots here in question. The results of such recount are as follows:

1.

<u>DELEGATE</u> CANDIDATES	TOTALS	R A N ORDER	swere Fl
 James Duff Paul Crowley Carmen Santoro James Malloy Steven Cyr 	63 54 14 51 18 3	1 4 2 3 5	

John F. Downey Carmen Santoro Jr. December 7, 1990 Page 3

ALTERNATE DELEGATE CANDIDATES 1. John P. Flynn 2. Bradford Kurciviez 3. Daniel Grant 4. Robert Harrington

The results of the election, including the ranking of all delegate and alternate delegate candidates, remain the same. Counting the 55 allegedly spoiled ballots did not affect the outcome of the election. Therefore, this portion of the post-election protest is dismissed. (Rules, Art. XI § 1(b)(2)).

TOTALS

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II. Notice - Paragraphs 1 and 5 of the Protest

Mr. Santoro protests that he did not receive written notice of the count and place of counting until 2.30 p.m. on the day of the count and that the notice he received of the rules, ballot count and ballot pickup was not by certified letter. Under the Rules, there is no requirement that individualized notice of the time or place of the ballot count notice be given to any candidate. Further, there is no requirement that notice be certified.¹

Regional Coordinator Rogers mailed to all candidates a letter, not required to be sent by the Rules, providing additional and further notice to all candidates (a copy of the letter is attached). Mrt. Santoro alleges that he did not receive this letter until 2.30 p.m. on the count day. However, Mr. Santoro had actual notice of the time and place of the ballot count:

(1) Mr Santoro is Secretary-Treasurer of Local 55. The Rules, first as proposed, second as final and third as revised, were mailed to him. Accordingly, Mr. Santoro surely had notice of their existence and content.

¹ While the Rules require at Article XI, § 5 that candidates be notified of the times of mail ballot pick-ups, the only allegation here is that such notice was not given by certified letter, not a requirement of the Rules.

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(2) A notice entitled "Nomination - Election Notice -Convention Delegate" was mailed to every member of Local Union 55. That notice stated: "The ballots will be counted on November 14, 1990 at the Local Union Hall, 650 Beacon Street, Boston, Massachusett

(3) Mr. Santoro personally attended the nominations meeting,

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(4) The election conducted was by mail ballot. The ballot instructions mailed with the ballot to all Local 55 constituted further notice to Mr. Santoro.

(5) The details concerning the sites and time of the ballot count were negotiated with Ann Barry who describes Mr. Santoro as her "boss." The Regional Coordinator met with Ms. Barry on November 9, 1990. At that time the particular room where the count was to be conducted was inspected. With Ms. Barry's notice and permission signs were posted at five locations within the Local Union hall directing candidates and their observers to the specific room where the count was to be held.

Based on the foregoing it is the Election Officer's determination that Mr. Santoro had adequate notice of the all election count-day events. Further, there is no allegation or indication that the lack of candidates or observers at the count affected the outcome of the election (Rules, Art. XI § 1(b)(2)). Thus, this position of the postelection protest must also be dismissed.

III. Notice to Paul Crowley - Paragraph 4

Mr. Santoro complains that the letter, referred to above and attached hereto, mailed by Regional Coordinator Rogers was directed to the "wrong" Paul Crowley.² Mr. Crowley has however filed no protest. It is therefore questionable whether standing exists for this position of the post-election protest.

² There are two Paul Crowley's in Local 55. One has a middle initial; one does not. The nominated candidate Paul Crowley was never identified to the Election Office as having a middle initial. (The posted list of nominated candidates listed Mr. Crowley without a middle initial). The November 9, 1990 letter was mailed to Local 55 member Paul Crowley who had no middle initial. The delegate candidate Crowley, in fact, is the member with a middle initial.

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With respect to the notice issue itself, the statements set forth in Section II above, particularly numbered paragraphs 2, 3, and 4, apply with equal force to the issue of notice to Mr. Crowley and again the no allegation or indication that the absence of Mr. Crowley of his observers on his behalf affected the outcome of the election (Rules, Art XI § 1(b)(2)). Accordingly this position of the post-election project must be dismissed.

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IV. The Number of Ballots Printed - Paragraph 3

Mr. Santoro complains that 806 ballots were printed although the Local's membership is 573. Local 55's election was a mail ballot, highly contested and one of the earliest elections supervised by the Election Officer. Therefore, to insure a margin of safety, the Election Officer determined to print 750 ballots.

All ballots have been accounted for: 806 ballots printed 73 ballots initially mailed; 5 duplicate ballots mailed; 228 ballots inused The protest is without merit. Further, the printing of additional ballots did not affect the outcome of the election (Rules, Art. XI, § 2(b)(2)). This portion of the protest is accordingly also dismissed.

In accordance with the foregoing, the entirety of Mr. Santoro's post-election protest is dismissed. (UO)(72)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 the 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, International Brotherhood of Teamsters, 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.

³ The printer printed 56 ballots beyond those ordered.

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KEHOE, DOYLE, PLAYTER & NOVICK

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MEMO

FROM:

TO:

Elizabeth A. Rodgers, New England Region Election Officer Staff

Teamsters Local No. 55 John Downey, FAX: Presiding Officer 617-266-2716

Nov 15, 1990 DATE.

Boquest for materials Tally sheet. REGARDING.

Enclosed please find:

The Election Officer Rules, rev. Aug. 1, 1990

The Proposed Local Union Plan

The Approved Local Union Plan

A Notice of Nomination Meeting

A Notice of Election (In person)

A Notice of Election (Mailing)

X Other: Tally Sheet of Nov. 14 1990 election for Delegate and Alternate to IBT convention. Thank you for contacting this office. Please contact us again if and when any other

questions arise.

NINE HAMILTON PLACE BOSTON, MA 02108 (617)338-0070 FAX (617)338-2160

Total Valid Ballots Counted SIGNED: Elabeth Offer			ĺ		
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LAW OFFICES OF KEHOE, DOYLE, PLAYTER & NOVICK NINE HAMILTON PLACE BOSTON, MASSACHUSETTS 02108 (617) 338 0070

152 LYNNWAY, SUITE 2 C PO. BOX 2080 LYNN, MASSACHUSETTS 01903 (617) 599 8188

ROBERT & DOYLE TEPHEN I KEHOL EDWARD BERKIN CAROLINE & PLAYTER EMILY I NOVICE ELIZABETH & RODGERS MARK BRONSTEIN DOUGLAS & MATRICK

Of Counsel CHERYL D. BEZIS

November 9, 1990

To all candidates, Local 55:

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Observer's Rights for Candidate for Election as Delegate or RE: Alternate Delegate

Dear Sir:

This is to inform you that you have the right to have at least one observer present at each and every phase of the election process. The observer must be a member in good standing. Observers may be present when the cast ballots are picked up from the prescribed post office box (P.O. Box 2317) at noon of the return date, Wednesday, November 14, 1990, at the J. F. McCormack Post Office, Post Office Square, Boston MA 02108. Such observers have the right to accompany the transfer of such ballots to the location where they are to be counted, at the Local Union Hall, 650 Beacon Street, Boston, MA 02215.

Your observers shall have the right to observe the conduct of the election. Your observers may articulate reasons for challenging the eligibility of any voter to vote, and to enter all vote counting locations.

The right to observe includes the right to observe the unpackaging of the ballots, the check made against the membership list of the eligibility of members desiring to vote, the handling of challenged ballots and the sealing of any ballot boxes.

Observers have the right to observe the counting of the ballots, the tally of the votes and the recording of the final vote count and the counting of the challenged, unused, voided and spoiled ballots. For further detail, see Article IX, OBSERVERS, of the Rules for the IBT international Union Delegate and Officer Election.

Sincerely, Rabeth a Rodgers

I certify that on November 9, 1990, a true and accurate copy of the forgoing document on candidates' rights was mailed to each candidate listed below:

James Duff 39 Tamarock Terrace Stoneham, MA 02180

Paul Crowley 32 Waterman Rd. Roslindale, MA 02131

Carmen Santoro 17 Hovey St. Quincy, MA 02169

James Malloy 6 Berkshire Ave. Norton, MA 02766

Steven Cyr 159 Sherman St. Cambridge, MA 02140

John Flynn 1 Speaker Lane Wenham, MA 01984

Bradford Kurciviez 17 Wompatuck Rd. Hingham, MA 02043

Daniel Grant 55 Elmwood Park Quincy, MA 02170

Robert Harrington 5 Hayden Cırcle North Billerica, MA 01862

Stephanie Kaminsky Viephance amenon) Paralegal for Elizabeth Rodgers