



OFFICE OF THE ELECTION OFFICER
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Michael H. Holland
Election Officer

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October 31, 1991

VIA UPS OVERNIGHT

William C. Fowler
64 Regal Court
Babson Court, FL 33827

Robert R. Cummins
President
IBT Local Union 79
5818 E. Buffalo Ave.
Tampa, FL 33619

Re: Election Office Case No. P-1020-LU79-SEC

Gentlemen:

A protest was timely filed by William C. Fowler pursuant to Article XI of the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("*Rules*"). In his protest, Mr. Fowler alleges that the *Rules* were violated in two respects. First, at the October 19, 1991 General membership meeting of Local 79, Local President Robert Cummins stated that the Local would prepare, duplicate and distribute a mailing containing the endorsement made by the members at the Local Executive Board of candidates in the 1991 IBT International Union election. Second, an extra issue of the Local's tri-annual newsletter entitled "Special IBT Election Edition" was distributed; the issue contained campaign statements, one from each of the R. V. Durham Unity Team, the Ron Carey Slate, and Vice President candidates T. C. Stone, Jerry Cook, and W. C. (Willie) Smith.

Following the conclusion of the October 19, 1991 Local Union meeting, Mr. Cummins contacted the Election Officer to inquire whether it was appropriate under the *Rules* for the Local to pay the costs associated with preparing and distributing the letter discussed at the membership meeting. When informed that no Local Union funds or resources could be used, Mr. Cummins agreed not to prepare or distribute the letter using any Local resources. Accordingly, since no mailing will occur, the first portion of Mr. Fowler's protest is moot and denied on that basis.

The Special IBT Election Edition of the Local's newsletter, which is the second basis of Mr. Fowler's protest, was issued in compliance with the decision and direction of the Election Officer in Election Office Case No. P-762-IBT. In Election Office Case No. P-762-IBT, the Election Officer found that the *Rules* were violated because an earlier issue of the newsletter contained improper campaign publicity for Mr. Cummins, then a candidate for International Vice President. The order of the Election Officer directed that Local 79 publish and distribute an extra edition of the newsletter between August and October, 1991, with candidates for Vice President other than Mr. Cummins

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being permitted to have included their campaign statements printed in the newsletter. Accordingly, this portion of the protest is DENIED.

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

Donald H. Williams, Regional Coordinator

Ron Carey
c/o Richard Gilberg, Esquire
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MHH/cb