

***PRE-ELECTION  
PROTEST  
DECISIONS***

***ELECTION OFFICE CASE NOS.***

***P-1131-LU313/599-PNW to P-1155-LU243-MGN***

***VOLUME XXVIII***

***Michael H. Holland  
Election Officer  
June 1992***

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December 26, 1991

**VIA UPS OVERNIGHT**

Douglas Frechin  
7515 - 181 Place, S.W.  
Edmonds, Washington 98026

Robert M. Pavolka  
Secretary-Treasurer  
IBT Local Union 599  
220 South 27th Street  
Tacoma, Washington 98402

Leo B. Sweeney  
Secretary Treasurer,  
IBT Local Union 378  
Labor Temple, 119½ N. Capitol Way  
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J. Michael Cserepes  
Secretary-Treasurer  
IBT Local Union 313  
220 South 27th Street  
Tacoma, Washington 98402

Diana Kilmury  
c/o Eddie Burke  
26 Bradford Street  
Main Front Door  
Charleston, WV 25301

**Re: Election Office Case No. P-1131-LU313/599-PNW**

Gentlemen and Ms. Kilmury:

A protest was filed pursuant to the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("*Rules*") by Douglas Frechin, a member of Local Union 174 and a credentialed representative of Diana Kilmury, a candidate for International Vice President at Large. In his protest, Mr. Frechin alleges that Local Unions 313, 599 and 378 inadequately responded to Mr. Frechin's request for worksite lists from those Locals.<sup>1</sup>

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<sup>1</sup> The protest letter on its face does not clearly indicate that Mr. Frechin is complaining about Local 378's compliance with his request for worksite information. During the course of the investigation of his protest Mr. Frechin alleged that Local 378 also had not complied with his request for a worksite list as required by the *Rules*. Thus, this allegation was investigated by the Election Office in conjunction with the

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This protest was investigated by Adjunct Regional Coordinator Patricia A. Warren. The investigation revealed that identical requests for the worksite list was sent by Mr. Frechin to Locals 313, 378 and 599. The request in pertinent part stated as follows, "I, Douglas Frechin, a member of Teamster Local 174 request a copy of your 'Worksites List' so that I can campaign for Diana Kilmury. I'm not interested in looking at the contracts, so please don't try that delaying tactic. Please respond within five working days, as time is now running short." The letter was accompanied by a copy of a letter signed by Diana Kilmury authorizing Mr. Frechin to serve as her credentialed representative.<sup>2</sup> The letter was sent by Mr. Frechin to Local 378 on November 7, 1991 and to Locals 313 and 599 on November 21, 1991. Mr. Frechin's protest letter is dated November 30, 1991 and was received by the Election Officer at his Washington, D.C. office on December 1, 1991.

Mr. Frechin's letter to Local 378 was received by the Local on November 8, 1991; the Local responded on the same date. The response letter questioned Mr. Frechin's identity and the validity of the document appointing him as a credentialed representative of an International Union officer candidate. The letter also noted that Local 378 did not have a worksite list.

Subsequently the Principal Officer of Local 378 communicated with Christine M. Mrak, Regional Coordinator. Ms. Mrak indicated that she could vouch for Mr. Frechin's identity and the Local therefore provided her, under cover of a letter dated November 19, 1991, with a copy of the addresses of all worksites where its members were employed, notifying her that she could provide the list to Mr. Frechin. The letter indicates that a copy was sent simultaneously to Mr. Frechin.

Mr. Frechin claims that he did not receive a copy of Local 378's November 19, 1991 letter to Ms. Mrak. However, Mr. Frechin did not subsequently -- prior to the filing of his protest -- communicate with either Local 378 or Ms. Mrak concerning the worksite information for the members of Local 378. After his filing of the instant protest and the commencement of the investigation, when it became clear that Mr.

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allegations made against Locals 313 and 599 due to the similarity of the allegations.

<sup>2</sup> Ms. Kilmury's letter references Article VII §11 of the *Rules* as the basis for her appointment of Mr. Frechin as her credentialed representative and his right as her credentialed representative to obtain worksite information. There is no Article VII §11 in the *Rules*, the correct reference is Article VIII §11 of the *Rules*.

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Frechin was complaining about Local 378's failure to comply with his request for worksite information, Ms. Mrak notified Mr. Frechin that she had received the worksite list from Local 378 and provided him with a copy.

Both Local Union 599 and 313 received Mr. Frechin's November 21, 1991 requests for worksite information on November 22, 1991. Both responded to Mr. Frechin by letters dated November 27, 1991 informing Mr. Frechin that he should make arrangements to come to the Local Union hall, demonstrate he was a member of the IBT and the appointed representative of International Union officer candidate Diana Kilmury, after which the worksite information would be provided him. Mr. Frechin responded to these letters by the instant protest claiming (1) that the *Rules* required that the worksite information be mailed to him and (2) questioning the Locals' right to demand proof of his identity and his appointment by Ms. Kilmury.

The *Rules* require in Article VIII §1 that candidates for International Union office have a right to inspect the collective bargaining agreements covering members of each and every Local Union in order to obtain the addresses of the worksites at which such members are employed. The *Rules* further provide that the Local may, in lieu of permitting review of its collective bargaining agreements, provide the candidate with a list of the addresses of all the worksites at which its members are employed. The Election Officer has also ruled that where review of the collective bargaining agreements will not provide the actual addresses of all worksites, the Local is obliged to provide the addresses of those worksites which cannot otherwise be gleaned from review of the collective bargaining agreements. Finally, the *Rules* permit in Article VIII §11 a candidate for International Union office to appoint a credentialed representative to review the collective bargaining agreements or otherwise obtain the worksite information from the various Local Unions.

The underlying purpose of Article VIII §1 of the *Rules* is to provide candidates with information as to the sites where IBT members are employed in order to permit campaigning by the candidate or his supporters at such worksites. The information is to be provided by permitting the candidate to review the collective bargaining agreements covering the members of any particular Local. While the Local Union may elect to provide a worksite list in lieu of permitting inspection of the collective bargaining agreements, it is not required to do so but is required, if necessary, to augment the review of the collective bargaining agreements by providing actual worksite addresses where the collective bargaining agreement does not reveal such addresses.

The *Rules* do not provide that the information be provided by mail. It is for that reason that Article VIII §11 of the *Rules* permits a candidate to appoint a representative to

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inspect the collective bargaining agreements or otherwise obtain the worksite information. The *Rules* recognize that the access provided by Article VIII §1 might be futile if the candidate him or herself were required to visit 615 Local Unions; accordingly, a candidate for International Union office may appoint any other member or members of the IBT to act as the candidates' credentialed representative to obtain such information. The *Rules* do not, however, prohibit the Local Union from seeking or obtaining proof of the representative's appointment as a precondition to providing the information.

A review of Mr. Frechin's protest in light of the *Rules* reveals that the *Rules* have not been violated. Both Locals 599 and 313 timely notified Mr. Frechin that he could obtain the information he requested by coming to the Local Union office. The Locals' asking for him to identify himself and demonstrate his appointment by Ms. Kilmury did not violate the *Rules*. If it would have been inconvenient or impossible for Mr. Frechin to travel to the situs of the Local 599 or Local 313 union hall to obtain the information, Ms. Kilmury had the right under Article VIII §11 of the *Rules* to appoint a different representative as her representative to obtain the worksite information from these Local Unions.

With respect to Local Union 378, the Local Union did in fact provide the information to Ms. Mrak with instructions that she could provide it to Mr. Frechin. While Mr. Frechin claims that he never received a copy of the letter from Local 378 so indicating, neither did Mr. Frechin make any attempt to contact either Local Union 378 or Ms. Mrak to inquire about the status of his request for the worksite information. If he would have done so, he would have obtained the worksite information he was requesting prior to the time he filed the instant protest.

Finally the IBT International Union officer election has now been completed. Ms. Kilmury was a successful candidate in such election. Thus, even assuming that Local 378, 599 or 313 had failed to provide her worksite information in accordance with Article VIII §1 of the *Rules*, such alleged violation did not affect the outcome of the election. See *Rules*, Article XI §1(b)(2).

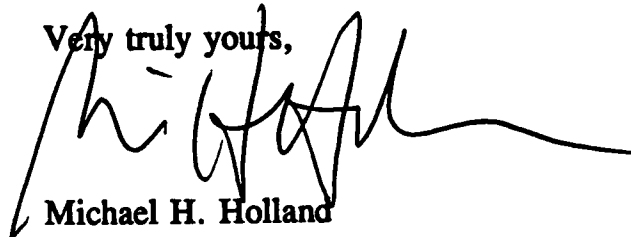
In accordance with the foregoing, the instant protest is DENIED.

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,

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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,

A handwritten signature in black ink, appearing to read "Michael H. Holland", with a long horizontal flourish extending to the right.

Michael H. Holland

MHH/ca

cc: Frederick B. Lacey, Independent Administrator

Christine M. Mrak, Regional Coordinator

Ron Carey  
c/o Richard Gilberg, Esquire

R. V. Durham  
c/o Hugh J. Beins, Esquire

Walter Shea  
c/o Robert Baptiste, Esquire