

OFFICE OF THE ELECTION OFFICER
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Michael H. Holland
Election Officer

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January 25, 1991

VIA UPS OVERNIGHT

Alfred L. Turner
10732 S Normal St
Chicago, IL 60628

Richard G. Lein
Secretary-Treasurer
IBT Local Union 786
300 S. Ashland Ave.
Chicago, IL 60607

The Hoff Slate
c/o IBT Local Union 786
300 S Ashland Ave
Chicago, IL 60607

Re: Election Office Case No. P-316-LU786-CHI

Gentlemen.

A pre-election protest was filed pursuant Article XI of the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("Rules"). In his protest the Complainant, Alfred Turner, asserts that the candidates on the Hoff Slate should be disqualified from running for delegate and alternate delegate positions. The purported basis for Mr. Turner's request is that Mr. Hoff, an incumbent Local Union officer and Executive Board member, and the head of the Hoff Slate, participated in the appointment of Mr. Vincent Cozzo to various positions of trust in Local 786. Mr. Cozzo has been recently removed, by Independent Administrator Frederick B. Lacey, from holding any IBT office or position. It is asserted that by employing or permitting the employment of Mr. Cozzo, Mr. Hoff and the members of the Hoff Slate have violated their obligations under Article II, § 2 (a) of the IBT Constitution. The Complainant alleges that therefore Mr. Hoff and the other members of his slate should be disqualified from membership in the IBT and hence disqualified from seeking election as delegates or alternate delegates to the 1991 IBT International Convention.

The jurisdiction of the Election Officer does not extend to the determinations as to whether or not members or officers of the IBT have violated their fiduciary responsibility to the Union. Pursuant to the Consent Order of March 14, 1989, bringing of charges based upon alleged violations of the members or officers' fiduciary duty is exclusively within the jurisdiction of the Investigation Officer, Charles Carberry,

Alfred L Turner
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determinations of whether violations of fiduciary obligations have occurred and the appropriate penalty for such violations is within the exclusive jurisdiction of the Independent Administrator, Frederick B Lacey. Therefore, the Election Officer does not have jurisdiction to disqualify Mr Hoff or the members of his slate from running for delegate or alternate delegate Accordingly, this 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/mca

cc Frederick B. Lacey, Independent Administrator
Julie E Hamos, Regional Coordinator

IN RE:

ALFRED L. TURNER,
COMPLAINANT,

and

THE HOFF SLATE, c/o IBT
LOCAL UNION NO. 786,

RESPONDENTS.

91 - Elec. App. - 63 (SA)

DECISION OF THE
INDEPENDENT ADMINISTRATOR

This matter arises out of an appeal of a January 25, 1991, decision of the Election Officer in Case No. [REDACTED]. A hearing was held by way of teleconference before me on February 8, 1991, at which the following persons were heard: John Sullivan and Julie Hamos, on behalf of the Election Officer; Alfred Turner, the Complainant.

Mr. Turner asserts that candidates on the Hoff Slate should be disqualified from running for delegate and alternate delegate positions to the 1991 IBT International Convention ("IBT Convention") on behalf of IBT Local Union 786 (the "Local"). The basis of Mr. Turner's challenge to the Hoff Slate is set forth in his original protest which reads in pertinent part as follows:

The "Hoff Slate" should be ineligible for election to Delegate and Alternate Delegate because of previous affiliation, appointment and confirmation by the Executive Board headed by Mr. Hoff of Mr. James Vincent Cozzo as Executive Coordinator of Local 786. Mr. Hoff

and the executive board occupy positions of trust in relation to this organization. U.S.C. 501 (a): Such officers should adhere to the highest standards of responsibility and ethical conduct in administering the affairs of their labor organization. Any appointments made by Mr. Hoff and retained by this executive board to any position of trust within the labor union will adhere to the same high standards of responsibility and ethical conduct. Mr. Cozzo's association with organized crime figures has brought reproach upon this local and the credibility of the "Hoff slate". In making such appointments, the incumbent union officers have an affirmative duty to insure that they obtain the true facts with respect to the character of the potential appointee and his or her discharge of the obligations of the position. An unreasonable failure to learn the true facts as to such appointments exposes these incumbent officials to liability for such conduct. This action was in violation of Article II Sect. 2(a) of the IBT Constitution and therefore [they] should [be] disqualified [from] their membership in this organization. This action should also deny the "Hoff Slate" eligibility to the 1991 IBT Convention.

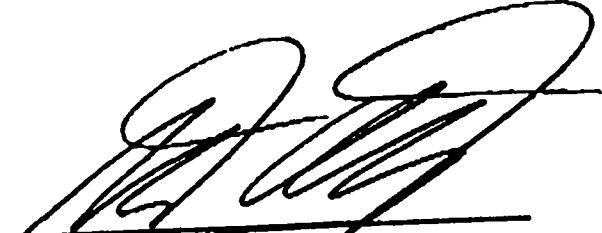
Mr. Turner's protest is apparently rooted in the fact that Cozzo was charged by the Investigations Officer, Charles Carberry, with bringing reproach upon the IBT by being a member of La Cosa Nostra and knowingly associating with members of La Cosa Nostra. In a July 12, 1990, decision, the Independent Administrator found that the Investigations Officer had proven that charge and, as a penalty, Cozzo was permanently barred from the IBT. United States District Court Judge David N. Edelstein, in an August 27, 1990, opinion affirmed that decision. U.S. v. IBT, 745 F.Supp 908 (S.D.N.Y. 1990).

The Election Officer properly denied Mr. Turner's protest. The Election Officer does not have jurisdiction to determine whether or not members or officers of the IBT have violated their

fiduciary duty to the IBT. Such charges are brought by the Investigations Officer. The Independent Administrator is vested with the exclusive jurisdiction to decide, following a hearing, whether such charges have been proven.

It is suggested that Mr. Turner contact the Investigations Officer with his concerns. A copy of this decision will also be forwarded to the Investigations Officer.

For the reasons set forth herein, the Election Officer's ruling is affirmed in all respects.



Frederick B. Lacey
Independent Administrator
By: Stuart Alderoty, Designee

Dated: February 8, 1991.