



OFFICE OF THE ELECTION OFFICER  
% INTERNATIONAL BROTHERHOOD OF TEAMSTERS  
25 Louisiana Avenue, NW  
Washington, DC 20001  
(202) 624-8778  
1 800-828-6496  
Fax (202) 624-8792

Michael H Holland  
Election Officer

Chicago Office  
% Cornfield and Feldman  
143 South Dearborn Street  
Chicago, IL 60604  
(312) 922-2800

February 1, 1991

**VIA UPS OVERNIGHT**

Kenneth R. Bohan  
Secretary-Treasurer  
Teamsters for Teamsters  
576 Prospect Ave  
Ridgefield, NJ 07657

Robert Marra  
Secretary-Treasurer  
IBT Local Union 560  
707 Summit Ave.  
Union City, NJ 07087

Val N Ortense  
235 Grantwood Blvd  
Palisades Park, NJ 07650

Re: Election Office Case No. P-320-LU560-NJE

Gentlemen

A pre-election protest was timely filed pursuant to Article XI, §1 of the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("*Rules*") The protest alleges that the results of the Local 560 Nominations Meeting required by Article II, §4 of the *Rules* on all Local Union bulletin boards had been defaced at the Kingsway Transport facility. Specifically, protest alleges that one of two Notices posted at the Kingsway Transport facility had been defaced by derogatory and obscene remarks hand-written beside the names of candidates listed under the Membership Party Slate The second of the two Notices posted at that facility had been defaced by crossing out of all of the names of candidates listed under the Membership Party Slate, and the addition of the words "blow-job" written below such names.

The Election Officer's investigation determined that such defacement had occurred While the Election Officer's investigation was unable to determine the identity of the member or person who defaced the postings, it is undisputed that Val Ortense, the Steward at Kingsway Transport and a supporter of the slate opposing the Membership Party Slate, knew that the postings had been defaced, had seen the defaced postings, but made no attempt to either remove the defaced postings and/or replace them with clean-undefaced copies of the Local 560 Nomination Results.

Further, Val Ortense actively interfered in the investigation of this protest. On January 7, 1991, Election Officer Adjunct Coordinator, Raymond R. Ciani, by direction of the Election Officer and Regional Coordinator, Edward Ellis, visited the Kingsway Transport facility. Mr. Ortense refused to allow Mr. Ciani to either take or even make a copy of the defaced Notices. Mr. Ortense was uncooperative, bellicose, quarrelsome, belligerent and refused to be interviewed by the Adjunct Coordinator. By his actions, Mr. Ortense directly interfered with the duties and the obligations of the Election Officer pursuant to the Consent Order of March 14, 1989 as well as the *Rules*.

It is the Election Officer's determination that the defacement of the posted Nomination results for Local Union 560 constitutes active interference with the election process as ordered by the United States District Court for the Southern District of New York in the March 14, 1989 Consent Order as well as the July 14, 1989 Order approving the *Rules*. Further, Mr. Ortense, participated in this violation by failing to remove and replace the defaced postings. Finally, and of great importance, Mr. Ortense also interfered with the election process as mandated by the Consent Order and the *Rules* by his obstructing the Election Officer's investigation of this protest.

To remedy these violations, Local Union 560 suggests that it provide a laminated copy of the Nomination Results for posting. The Election Officer adopts this proposal but has determined that a mere reposting is insufficient to remedy the violations here. To prevent repetition of the defacement of election materials, Mr. Ortense is ordered to monitor any and all election related postings, including the postings required by the *Rules*, Local Union notices with respect to the Nomination and Election process as well as all campaign materials, and remove any defaced postings. Mr. Ortense is to replace any defaced postings with undefaced copies of the material so removed. To remedy Mr. Ortense's interference in the election process, the Election Officer orders that Mr. Ortense sign the enclosed letter, post it on all Union bulletin boards at the Kingsway Transport facility herein question as well as mail it to all IBT members employed at the Kingsway Transport facility at issue here. The duplication and mailing shall be at the personal expense of Mr. Ortense. In addition, Mr. Ortense shall pay at his own personal expense the cost to the Election Office for the investigation of this matter by Mr. Ciani. That cost amounts to \$200.00 plus out-of-pocket expenses. Information concerning this will be available to Mr. Ortense from the Regional Coordinator.

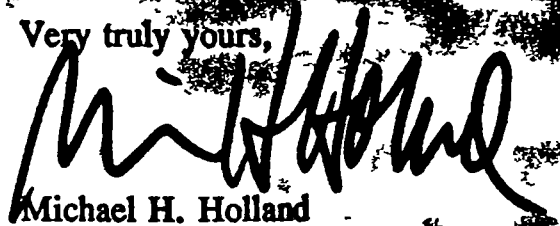
The duplication posting and mailing and investigation expense payment required by this decision is to be accomplished by Mr. Ortense within seven (7) calendar days of his receipt of this decision. Within five (5) calendar days thereafter, he is to file with the Election Official appropriate affidavits demonstrating that such duplication, posting and mailing has been accomplished.

If any person is not satisfied with this determination, he may request a hearing before the Administrator within twenty-four (24) hours of his receipt of this letter. Such request shall be made in writing and shall be served on Administrator Frederick B. Lacey at LeBoeuf, Lamb, Leiby & MacRae, One Gateway Center, Newark, N.J.

Kenneth R. Bohan  
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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, IB 25 Louisiana Avenue, N.W., Washington, D.C. 20001, Facsimile (202) 624-192. A copy of the protest must accompany the request for a hearing. 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.

Very truly yours,



Michael H. Holland

MHH/BJH/mca

cc: Mr Frederick B. Lacey  
Edward T. Ellis, Regional Coordinator

**NOTICE TO IBT MEMBERS FROM VAL ORTENSE**

**You have the right to participate in campaign activities on behalf of candidates for delegate and alternate delegate to the 1991 IBT International Convention.**

**You have the right to participate in campaign activities on behalf of candidates for International Office in the IBT.**

**You have the right to support either slate of delegate and alternate delegate candidates in the delegate and alternate delegate election being conducted at Local 560.**

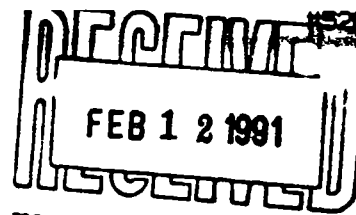
~~I will not support your right to participate in campaign activities on behalf of candidates for delegate and alternate delegate to the 1991 IBT International Convention. I will not support your right to participate in campaign activities on behalf of candidates for International Office in the IBT. I will not support your right to support either slate of delegate and alternate delegate candidates in the delegate and alternate delegate election being conducted at Local 560.~~

~~I will not interfere and will cooperate with any and all investigations conducted by or on behalf of the Election Officer.~~

*Conclude*  
**I will not permit any IBT member, or any other person, to deface or write derogatory or obscene comments on any document relating to the Delegate and Alternate Delegate or International Officer election.**

**I will not interfere and will cooperate with any and all investigations conducted by or on behalf of the Election Officer**

\_\_\_\_\_  
Val Ortense



IN RE:

KENNETH R. BOHAN,  
COMPLAINANT,  
and  
VAL N. ORTENSE, IBT LOCAL  
UNION NO. 560,  
RESPONDENTS.

91 - Elec. App. - 65 (SA)

DECISION OF THE  
INDEPENDENT ADMINISTRATOR

XMAH  
BIA  
JS

This matter arises out of an appeal from a February 1, 1991, decision of the Election Officer in Case No. P-320-LU560-NJE. A hearing was held before me on February 8, 1991, at which the following persons were heard: John Sullivan (by way of tele-conference), Edward T. Ellis, and Raymond R. Ciani, on behalf of the Election Officer; Val N. Ortense, the Respondent; and Al Laurie, Chairman of IBT Local Union 560's "Election Committee," representing Mr. Ortense.

This appeal involves the posting of the results of the nominations meeting conducted at IBT Local Union 560 (the "Local Union" or "Local 560"). The posted notices containing the results of Local 560's nominations meeting were defaced by: (1) the obliteration of "Membership Slate"<sup>1</sup> candidates' names, and (2) the addition of obscene and derogatory words written by hand on and around those candidates' names. During the ensuing investigation,

<sup>1</sup> The Membership Slate is opposing the Teamsters For Liberty Slate. The Teamsters For Liberty Slate candidates for delegate are all incumbent Local Union officers.

Mr. Ortense, who, as shop steward, was delegated the responsibility of posting union notices for Local 560, was accused of: (1) obstructing the Election Officer's efforts to investigate this protest by exhibiting "hostile" and "uncooperative" conduct; and (2) failing to take steps to remove and replace the notices with clean copies. I will first address the issue of Mr. Ortense's alleged obstruction of the Election Officer's investigation.

Local 560 maintains a bulletin board for notices in the drivers' "ready room" at the Kingsway Transport facility on which various materials are posted. It is not disputed that the notice in question was indeed posted on that board on or about December 26, 1990. It is also not disputed that another copy of the notice was taped to a window<sup>2</sup> in the drivers' "ready room." Nor is it disputed that, while both notices were defaced with derogatory and obscene graffiti on and around those names of the candidates listed under the Membership Slate, no such graffiti was found near the names of candidates for the Teamsters for Liberty Slate. A copy of one of the posted notices and the original of the other were introduced at the hearing.

A complaint that the notices had been defaced was received by the Election Office sometime after December 26, 1990. On January 7, 1991, Mr. Ciani, an Adjunct Regional Coordinator with the Election Office, visited the Kingsway Transport facility to conduct an investigation. His visit was unannounced. Mr. Ciani was first

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<sup>2</sup> The window in question was an interior window separating the "ready room" from the dispatch room.

escorted to the "ready room" by a company official and introduced to Mr. Ortense. Mr. Ortense asked Mr. Ciani for documentation to prove that he was indeed from the Election Office and a second form of identification to prove that he was indeed Mr. Ciani. Both were produced. After presenting his credentials to Mr. Ortense, Mr. Ciani proceeded with his investigation. Mr. Ciani contends that Mr. Ortense became "belligerent" and "uncooperative by" refusing to answer Mr. Ciani's questions fully and by refusing to provide Mr. Ciani with an original or copy of the defaced notices as requested. This "failure to cooperate" required a second investigatory visit to the facility by Mr. Ellis the Regional Coordinator. On his visit, Mr. Ellis was accompanied by Mr. Laurie.

At the hearing before me, both Mr. Ciani and Mr. Ortense told their respective version of the events. Considering this testimony I find that Mr. Ortense did not intentionally act to frustrate Mr. Ciani's investigative efforts. Mr. Ciani was permitted to inspect and take notes from the notices. I find that Mr. Ortense in fact answered Mr. Ciani's questions concerning the defaced notices to the best of his ability, and only refused to answer when Mr. Ciani's questions turned personal in nature.<sup>3</sup> I also find that Mr. Ortense's failure to turn the notices over to Mr. Ciani was based on his genuine uncertainty as to Mr. Ciani's authority to

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<sup>3</sup> At one point, for example, Mr. Ciani asked Mr. Ortense for his home address. Apparently, this information was being sought in connection with an unrelated investigation.



make such a demand and his (Mr. Ortense's) obligation to turn over the notices.

I further find Mr. Ortense's natural temperament to be emotionally charged, stressful and demonstrative. This may account for the "belligerent" and "uncooperative" attitude Mr. Ciani noted.

Accordingly I reverse the Election Officer's finding that Mr. Ortense intentionally frustrated the Election Officer's investigation. In reaching this conclusion I recognize and appreciate the fact that the Election Officer's staff may sometimes find themselves in difficult situations, investigating incidents such as this one, in unfamiliar and inhospitable surroundings. While I do not find that Mr. Ortense acted intentionally to frustrate the Election Officer's investigation, I do find that he was unduly confrontational and his failure to fully cooperate with Mr. Ciani necessitated a second visit by Mr. Ellis.

As for the penalty imposed upon Mr. Ortense by the Election Officer to pay the \$200 out-of-pocket cost of Mr. Ellis' subsequent visit, Mr. Ortense is to pay only \$50 of that cost, the balance to be paid by the Local Union's Secretary-Treasurer Robert Marra. Both men shall pay these sums from their personal funds.

The amount to be paid by Mr. Ortense is reduced for two reasons. First, as noted, while Mr. Ortense was unduly confrontational, he did not act intentionally to frustrate the Election Officer's investigation. Second, Mr. Ortense's weekly net pay is less than \$500 per week. While the Election Officer's

penalty was not meant to be punitive, it would have an excessive financial burden on Mr. Ortense given the circumstances.

As explained in greater detail below, Secretary-Treasurer Marra is ordered to pay the \$150 balance because it was his responsibility to post the nomination notices. While he is free to delegate that responsibility, he must be held responsible for the actions of those he delegates to.

I now turn to the issue of Mr. Ortense's failure to take steps to remove and replace the defaced notices with clean copies. The Election Officer found that Mr. Ortense breached his obligation to take these remedial steps.

Article II, Section 4 of the Rules For The IBT International Union Delegate And Office Election (the "Rules") requires that "the Local Secretary-Treasurer shall post" on Union bulletin boards a list of nominated candidates by name and slate. If the Secretary-Treasurer delegates that responsibility he must take steps to ensure that his delegate fully understands the nature and extent of his responsibility. Secretary-Treasurer Marra did not take such preventive measures here.

I find that Mr. Ortense did not know that he should remove the defaced notices and replace them with clean copies. Mr. Ortense testified, and Mr. Ciani and Mr. Ellis corroborated that many notices in the drivers' "ready room" are scrawled with graffiti. However, when Mr. Ciani told Mr. Ortense on January 7, that clean notices should be posted, Mr. Ortense placed a call to the Local Union Office that same day requesting new copies. He did not

remove the defaced copies in the interim because he was uncertain if such removal would be proper pending receipt of the clean copies. In other words, Mr. Ortense did not want to remove the tainted copies unless he had clean copies to replace them with.

The offending notices were removed a few days later and a clean copy, in a protective plastic cover, was posted by Mr. Laurie when he accompanied Mr. Ellis on his subsequent visit to the Kingsway Transport facility.

For the foregoing reasons, I reverse in part the Election Officer's decision regarding Mr. Ortense's failure to post clean notices. I find that Secretary-Treasurer Marra was responsible for the posting of these notices. While he is permitted to delegate that responsibility, he failed to fully orientate Mr. Ortense as to the scope of his responsibilities. Accordingly, the following revised remedy is ordered:

- (1) The two notices attached hereto shall be signed, dated and posted on the bulletin board in the drivers' "ready room" at the Kingsway Transport facility. In addition, the same two notices shall be mailed to all members of Local 560 employed at the Kingsway Transport facility, at Secretary-Treasurer Robert Marra's personal expense;<sup>4</sup>
- (2) Both of these notices shall be posted in protective plastic coverings and Mr. Ortense shall keep extra copies on hand and in such event either of the notices are defaced, Mr. Ortense shall, upon discovering the defaced notice, immediately replace it with a clean copy. The notices shall remain

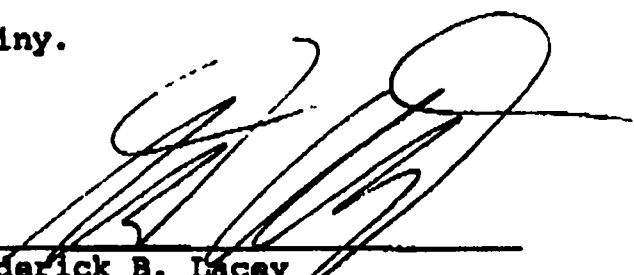
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<sup>4</sup> It is necessary that the notice from Mr. Ortense be issued to resolve any uncertainty at the Kingsway Transport facility regarding Mr. Ortense's position on the posting of election related notices and on the election process as a whole.

posted until such time as the Election Officer directs that they can be removed.

- 3) In addition, the clean copy of the notice with the results of the nominations meeting shall continue to remain posted in its plastic covering until the Election Officer directs that it be removed. Mr. Ortense shall also keep a clean copy of this notice on hand and in such event this notice is defaced, Mr. Ortense shall, upon discovering the defaced notice, immediately replace it with a clean copy.

Mr. Ortense is hereby put on notice that any future allegation concerning his violation of the Election Rules or his failure to cooperate with the Election Officer or the Election Officer's staff will be reviewed with the utmost scrutiny.



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

Dated: February 12, 1991.

**NOTICE TO IBT MEMBERS FROM VAL ORTENSE**

You have the right to participate in campaign activities on behalf of candidates for delegate and alternate delegate to the 1991 IBT International Convention.

You have the right to participate in campaign activities on behalf of candidates for International Office in the IBT.

You have the right to support either slate of delegates and alternate delegate candidates in the delegate and alternate delegate election being conducted at Local 560.

I will actively support your right to engage in campaign activities and I will actively support your right to campaign for and speak on behalf of either slate of delegate and alternate delegates seeking election in the Local Union 560 Delegate and Alternate Delegate election process.

I will not interfere with your right to participate in campaign activities and I will not interfere with your right to support any slate of delegate and alternate delegate candidates in the Local 560 Delegate and Alternate Delegate election.

I will not encourage or condone the efforts of any IBT member, or any other person, to deface or write derogatory or obscene comments on any document relating to the delegate, alternate delegate or International Officer elections.

I will not interfere and will cooperate with any and all investigations conducted by or on behalf of the Election Officer.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Val Ortense

**NOTICE TO IBT MEMBERS FROM  
SECRETARY-TREASURER ROBERT Marra**

Please be advised that all members of Local 560 must fully cooperate with the Election Officer and his staff in any of their investigations arising out of the election of delegate and alternate delegate to the 1991 IBT Convention and the subsequent election of International Officers.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Robert Marra  
Secretary-Treasurer