



OFFICE OF THE ELECTION OFFICER
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Michael H. Holland
Election Officer

February 15, 1991

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VIA UPS OVERNIGHT

Bob Highfill
Route # 5, Box 77A
Silon Springs, AR 72761

Ott L. Rogers
Secretary-Treasurer
IBT Local Union 373
4314 South Phoenix
Fort Smith, AR 72906

Re: Election Office Case No. P-455-LU373-SOU

Gentlemen

A pre-election was filed by Mr. Bob Highfill pursuant to Article XI of the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("*Rules*") In the protest, Mr. Highfill alleges that the Local Union violated Article II of the *Rules* by failing to post nomination results on all Local Union bulletin boards within seven days of the nomination meeting.

The investigation conducted by the Election Office Regional Coordinator, Larry Daves, reveals the following facts:

The nomination meeting for Local Union 373 was conducted on January 6, 1991, in Fort Smith, Arizona. Both Messrs. Rogers and Mr. Highfill were nominated as delegate candidates. Local Union 373's election for one (1) delegate and one (1) alternate delegate will be conducted by mail ballot, and ballots will be counted on March 1, 1991.

Subsequent to the nomination meeting, two protests were filed by Mr. Rogers involving the "Teamsters for a Change Slate" slate declaration form. The Local Union delayed the posting of the nomination results until the protests were resolved. Both protests were denied by the Election Officer. The first decision was issued on January 23, 1991, and the second decision was issued on January 25, 1991.

On January 28, 1991, immediately after receiving the Election Officer's protest decision involving Mr. Highfill's slate declaration form, Mr. Rogers, the Secretary-Treasurer, prepared the nomination notice and sent it to all the shop stewards.

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for posting on all the Local Union bulletin boards. The evidence establishes that the notice has been posted on all Local Union bulletin boards since January 28, 1991.

The investigation conducted by the Election Officer also revealed that the nomination results were posted on Local Union stationary letterhead, which contained Messrs. Ott Rogers' and Randall Sanderson's names. The posting was also signed by Mr. Rogers, the Secretary-Treasurer. Mr. Rogers and Mr. Sanderson are IBT International Convention delegate and alternate delegate candidates, respectively. The Regional Coordinator, Larry Daves, has contacted Mr. Rogers to inform him that the posting must be redone in accordance with Article II of the *Rules* which requires that nomination results shall be "on 'blank' Union letterhead, that is letterhead that has no names of Local Union officers, business agents, union staff, or the like." See, Advisory on Posting Nomination Results (Office of the Election Officer, Michael H. Holland, IBT Election Officer, December 10, 1990) Secretary-Treasurer Rogers has cooperated with Mr. Daves' request and has prepared a new notice which does not contain the names of any Local Union Officers, and, as of today's date, the new notice will be posted on all Local Union bulletin boards. Mr. Rogers has informed Mr. Daves that the new notice has also been mailed to all shop stewards at each warehouse site to insure that the notice remains posted.

With reference to the Local Union's delay in posting the nomination results, the Election Officer concludes that the Local Union's failure to post the nomination results within seven (7) days constitutes a violation of the *Rules*. Article II § 4 of the *Rules* states that "as soon as possible in no case later than seven (7) days following the nomination meeting(s), the Local Secretary-Treasurer shall post, on all Union bulletin boards, a list of those candidates nominated by name and slate, if known at the time" (pp.14-15, *Rules*)

Regardless of the fact that protests are pending concerning the validity of one of the slates, the Local Union is still under an obligation to post the notice within seven (7) days. See, Advisory on Posting Nomination Results (Office of the Election Officer, Michael H. Holland, IBT Election Officer, December 10, 1990).

I find that the Local Union 373's delay in posting the nomination results within seven days violated Article 11 § 4 of the *Rules*. Accordingly, Mr. Highfill's protest is **GRANTED**.

Since the purpose of requiring the posting within seven days is to insure that members are given notice of the names of the nominated candidates and the fact that there will be a contested election, I order the following remedy

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Local 373 shall be required to call a Special Meeting for the purpose of conducting a delegate and alternate delegate candidate forum on Sunday, February 24, 1991 at 2 00 p m at the Local Union Hall at 4314 South Phoenix in Fort Smith, Arkansas. Each slate shall be permitted to speak for twenty-minutes and there shall be a lot drawing at the beginning of the meeting between the two slates to determine which slate shall have the opportunity to speak first.

A notice to the members concerning the meeting has been prepared by the office of the Election Officer and is attached to this decision. This notice must be posted on all Local Union bulletin boards as of the close of business on Tuesday, February 19, 1991

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
Larry R Daves, Election Officer Representative

A T T E N T I O N

SPECIAL MEETING FOR ALL LOCAL UNION 373 MEMBERS

CANDIDATE FORUM

On Sunday, February 24, 1991, at 2:00 p.m. there will be a Candidate Forum for the Delegate and Alternate Delegate Election. The Forum will take place at the Local Union Hall at 4314 South Phoenix in Fort Smith.

All nominated candidates have been invited to speak and all members are encouraged to attend.