



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

769/SEC

Michael H Holland
Election Officer

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

March 1, 1991

VIA UPS OVERNIGHT

Jack Barmon
11760 S.W 83rd Court
Miami, FL 33156

Louis D Riga
1510 Park Avenue
Suite 100
San Jose, CA 95126

Ron Carey
c/o Richard Gilberg, Esq
330 West 42nd Street
New York, NY 10036

William F Genoese
15 East 26th Street
Suite 1508
New York, NY 10010

Tony Cannestro
President
IBT Local Union 769
8350 N.W. 7th Avenue
Miami, FL 33150

Walter Shea
c/o Robert Baptiste
1919 Pennsylvania Avenue, N W
Suite 505
Washington, D C 20006

R.V. Durham
c/o Hugh Beins
Beins, Axelrod, Osborne
& Mooney
2033 K Street, N W , Suite 300
Washington, D C 20006-1002

J Kriendler
V P. Corporate Communications
Pan American World Airways
Pan American Building
200 Park Avenue
New York, NY 10166

Re: Election Office Case No. P469-LU769-SEC

Gentlemen:

Complainant Jack Barmon filed a pre-election protest pursuant to Article XI, Section 1 of the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("*Rules*"). Complainant protests that Pan American World Airways on February 5, 1991 placed an item in its "Employee Newswire" which it is

alleged was supportive of the candidacy for IBT General President of William F. Genoese. Mr. Barmon alleges that such act constitutes improper employer contribution to Mr. Genoese in violation of the *Rules*.

The investigation reveals that the "Employee Newswire" is distributed by Pan American, by teletype, on a daily basis to all its facilities worldwide. The one-page document is then posted at all such locations with the intent that it be read by Pan American employees. In the issue of the Employee Newswire dated February 5, 1991, the following item, Item no. 6, appeared:

Bill Genoese, Director of the Airline Division of the International Brotherhood of Teamsters has announced his candidacy for general president of the Teamsters. For the first time in history the top Teamster Officers will be elected by the rank and file members of the Union. After the ballot is put together at the Teamsters 24th Convention in Florida this June ballots will be mailed to all 16 million Teamster members.

Genoese criticized the present Teamster Leadership for what he called distancing themselves from the rank and file. "Membership will continue to decline under the present leadership," he said. Genoese notified Frederick B. Lacey, the Independent Administrator of the Teamsters of his intentions to run.

Article X, Section 1(b)(1) of the *Rules* states as follows: "No employer shall be permitted to contribute anything to any campaign. . . . This prohibition extends beyond strictly monetary contributions made by an employer to include a ban on the contribution and use of an employer's stationery, equipment, facilities and personnel." The prohibition against employer contributions to a campaign is in accord with Section 481(g) of the Labor Management Reporting and Disclosure Act ("LMRDA") 29 U.S.C. § 481(g) which provides that "no monies of an employer shall be contributed or applied to promote the candidacy of any person in any election . . ." See also 29 C.F.R. 452.78 ("Section 401(g) provides that no money of an employer is to be contributed or applied to promote the candidacy of any person . . . This includes indirect, as well as direct expenditures. This prohibition against the use of employer money includes any costs incurred by an employer or any thing of value contributed by an employer, in order to support the candidacy of any individual in an election.")

The "Employee Newswire" is posted at all employer facilities as an official employer document, intended to be read only by employees of Pan Am. It is thus an analogous to official company notice posted on an official company bulletin board. It is not an independent news publication produced to provide general news information to the public. The publication clearly benefitted the campaign of Mr. Genoese. It included a statement of Genoese's political platform and was distributed to and posted at facilities

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where IBT members work. Pan American, clearly an employer within the meaning of the *Rules*, by publishing and distributing this "Employee Newswire" clearly made a contribution of something of value to Mr. Genoese's campaign, in violation of the *Rules*.

On the basis of the foregoing, the protest is **GRANTED**. The Election Officer determines that the appropriate remedy for this violation is to provide similar publicity for all other candidates seeking election as IBT General President. Pan American World Airlines, therefore, is directed to make its "Employee Newsletter" available to all other announced IBT General Presidential candidates, namely Messrs. Durham, Shea, Carey and Riga. Each such candidate may within the next fourteen days submit a statement to Mr. Kriendler of no more than 125 words, the length of the item with respect to Mr. Genoese. Pan American shall publish such statements in its "Employee Newswire" within seven days of receiving it from the candidate. The "Employee Newswire" shall be distributed and posted in the normal manner.

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/ads

cc Frederick B. Lacey, Independent Administrator
Donald H. Williams, Regional Coordinator
Joseph Knock
Pan American World Airways
Pan American Building
Suite 918
200 Park Avenue
New York, New York 10166