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Michael H Holland
Election Officer

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February 22, 1991

VIA UPS OVERNIGHT

Ronald J Payette
8679 Norris Ave
Sun Valley, CA 91352

Karl H Ullman
Secretary-Treasurer
IBT Local Union 495
1616 Ninth St.
Room 206
Los Angeles, CA 90015

Re: Election Office Case No. P-532-LU495-CLA

Gentlemen

A pre-election protest was filed pursuant to Article XI of the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("*Rules*") In the protest, Ronald J Payette, Complainant, protests the "libelous and invective material" distributed by the Carl H. Ullman "Unity Slate" in connection with the campaign for the election of delegates The Election Officer has investigated this matter and the investigation reveals the following

The protest focuses upon the contents of campaign literature issued by the Carl H Ullman "Unity Slate." The offending piece of literature is entitled "Measure the Slates." Examination of this material indeed discloses that it contains disparaging material relating to the character and abilities of the "Ron Carey" slate. Objections to the contents of campaign literature such as those alleged here cannot, however, be sustained as violations of the *Rules*.

Under the *Rules*, fair and open elections are accomplished by enforcing procedures that allow candidates full and equal opportunities to deliver their message to potential voters. The *Rules* do not seek to accomplish their goal by evaluating or censoring the speech of candidates The cardinal principle is that the best remedy for untrue speech is more free speech The remedy for false, untrue or misleading speech is the opportunity to rebut The native good sense of voters aided by effective countering information will normally assure that "malicious invective" as alleged here will be distinguished from valid criticism As long as the literature does not purport to be the official voice of the Union as opposed to the opinion of candidates who may be officers, injury will not generally be made as to its truthfulness.

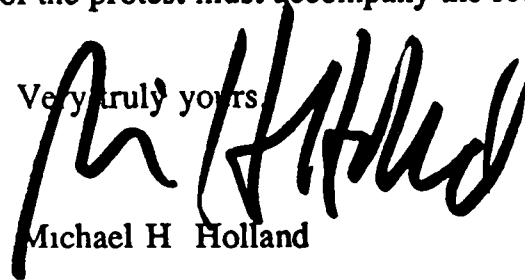
Ronald J Payette
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This approach to regulating the conduct of speech generated during Union elections under the *Rules* is fully in accord with the established rulings of United States Supreme Court and Federal Courts of Appeals National Association of Letter Couriers v. Austin, 418 U S 264 (1974) (uninhibited and robust debate encouraged in labor matters, allegedly defamatory statements permitted), Salzhaldler v. Caputo, 316 F 2d 445 (2nd Cir 1963) (statements critical of Local Union officials even if incorrect is protected as free speech). The policy encouraging robust political debate in the selection of delegates and International Officers of the IBT is specifically reflected in the Election *Rules* prohibition against the censorship of campaign literature. See *Rules*, Article VII, § 6 (g)

Here the material is clearly campaign material not officially endorsed by the Union Accordingly, this protest must be 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,

A handwritten signature in black ink, appearing to read "Michael H. Holland". The signature is stylized and cursive.

Michael H Holland

MHH/mca

cc Frederick B. Lacey, Independent Administrator
Geraldine Leshin, Regional Coordinator