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March 11, 1991

VIA UPS OVERNIGHT

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Daniel Sciarra
President
IBT Local Union 560
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Mike Arsi
c/o Teamsters for Teamsters
c/o Local Union 560
707 Summit Ave
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Re: Election Office Case No. P-590-LU560-NJE

Gentlemen

James Cirillo files this pre-election protest pursuant to the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("Rules"). The protest states that Mike Arsi, a Local 560 steward employed at Anchor Motor Carriers, and Ken Bohan, a Local 560 member not employed by Anchor Motors, have been permitted to use the employer's fax machine to send protests to the Election Officer or Regional Coordinator. The protest further states that both Messrs Arsi and Bohan are affiliated with the Teamsters for Teamsters ("TFT"), supporters of a delegate and alternate delegate slate named the Membership Slate. The protester Cirillo then contends that Arsi only permits members affiliated with the TFT slate to use the Anchor's fax machine, while Ken Bohan, has been permitted to use the fax machine, members supportive of the TFL slate had been refused access or use of the machine.

The second part of the protest concerns the posting of Local 560's nominations meeting. Cirillo contends that the official notice of the results of the nomination meeting was not posted at the Anchor location. He alleges that Arsi, as the steward for members of Local 560 employed at Anchor, had an obligation to post those results and insure that the posting was not removed. By not doing so, Cirillo contends that Arsi violated the *Rules*.

The genesis of this protest appears to be an earlier decision by the Election Officer in a protest filed against Mr. Bohan. That protest alleged that Bohan violated the *Rules* by using Anchor's fax machine to transmit a protest to the Election Officer. The Election Officer denied the protest. (See P-360-LU560-NJE).

In that case, Arsi sought and obtained permission to use the fax machine to fax Bohan's protest to the Election Officer. Arsi's offer to pay for the use of the machine was refused. The Election Officer determined that such use was not violative of the *Rules*. "The de minimis 'contribution' represented by such use of telephone, duplicating or FAX equipment is far outweighed by its value in furthering the purpose of the *Rules* and their underlying Consent Order. As long as an employer's FAX or other equipment is not made available on a discriminatory basis, reasonable use for the purposes described herein does not constitute a violation of the *Rules*."

In an effort apparently to test that decision -- particularly the portion dealing with non-discriminatory use of the fax machine, Cirillo, not employed by Anchor and otherwise unknown to Anchor management, entered the facility at approximately 3:30 p m on or about February 6, 1991. He walked up to the person who was closest to the fax machine and asked for permission to use it. That person agreed but said that he would have to check with a "lady", the "lady" denied him permission.

On the following day, Cirillo returned to Anchor accompanied by Vinnie Laurie, also a Local 560 member not employed by Anchor, bringing with them a camera and tape recorder. They asked for Bonnie Egan and requested permission to use the fax machine. Ms Egan refused. They stated to her that the machine had been used by Arsi and Bohan previously. She stated that she did not know of that use and that she was refusing them permission. Cirillo told the Election Office representatives -- but not Ms Egan -- that he wanted to send a message to Edward T. Ellis, the Regional Coordinator, asking him when the ballots would be out and how could he obtain a sample ballot.¹

It is apparently Cirillo's position that Anchor's fax machine is not available on a non-discriminatory basis since he was not permitted to use it to send a message to the Regional Coordinator, while such equipment was used to send Bohan's protest to the Election Officer. The evidence does not support Cirillo's position. Bohan's protest was sent to the Election Officer by Arsi, an employee of Anchor. Cirillo is not so employed. As the "Advisory Regarding Political Rights" notes, the campaigning rights of an IBT member with respect to utilization of the facilities of an employer other than such member's own employer are more limited than the campaigning rights of IBT members employed by that employer. Anchor has the right to limit the utilization of its facilities and equipment, including its fax machine, to those IBT members employed by it, as opposed to members like Cirillo who are unknown to the employer and have no connection with it. The Election Officer, in his investigation of this protest, was unable

¹The Election Officer investigation further determined that Arsi had not spoken to Ms Egan about his use of the fax machine. It appears Ms Egan was truthful when she stated to Cirillo that she did not know of Arsi's previous use.

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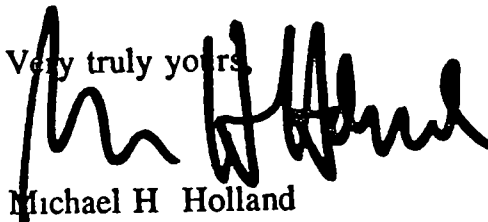
to discover any evidence indicating that Anchor discriminated among its employees with respect to such members' use of its fax machine

The second portion of Mr Cirillo's protest concerns the posting at the Anchor facility of the results of the Local 560 nomination meeting. The Election Officer investigation determined that the nomination meeting results had been posted in a timely manner by Arsi at the Anchor facility. On or about February 7, 1991, following the visit to Anchor by Cirillo, the posted nomination meeting results were apparently removed. However, there is no evidence that they were removed by Arsi. Further the notice was promptly reposted by Arsi after its removal was discovered.

For all the foregoing reasons, 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
Edward T Ellis, Regional Coordinator