



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  
343 South Dearborn Street  
Chicago IL 60604  
(312) 922 2800

March 20, 1991

**VIA UPS OVERNIGHT**

Alfred Dilks  
c/o Guam Bargaining Unit  
Det 5, 2 STG (3)  
APO San Francisco, California 96334

Harold De Costa  
President  
Teamsters Local 996  
904 Kohou Street  
Suite 102  
Honolulu, Hawaii 96817

**Re: Election Office Case No. P-668-LU996-RMT**

Gentlemen

A pre-election protest has been filed pursuant to Article XI, Section 1 of the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("*Rules*") In his protest, the complainant, Alfred Dilks, Chief Steward of the Guam bargaining unit of Local 996, complains of the manner in which the balloting is being conducted in Guam for the election of delegates to the 1991 IBT International Convention

In his capacity as the court-appointed officer required to supervise the entirety of the 1991 IBT International officer and delegate election, the Election Officer directed Loral Space and Range Systems, a subcontractor of the United States government, specifically a subcontractor of the Guam Tracking Station at the Anderson Air Force Base on Guam, and the employer of Guam-domiciled members of Local 996, to perform certain functions related to the election of delegates to the 1991 IBT International Convention from Local Union 996 The protestor contends that the Union, and not the employer, should have been directed to perform these functions

Local Union 996's headquarters are located in Honolulu, Hawaii The 1991 IBT International Convention delegate election from such Local is being conducted by mail ballot The only address for the Guam-domiciled members of Local 996 is APO San Francisco, the mail for such membership is distributed by the Armed Forces of the United States The Election Officer was informed that mail distribution via the APO system would require two to three weeks for delivery Sending mail to each individual Local 996 Guam-domiciled member could, thus, disenfranchise such members, the length of time for mail delivery could result in the member's ballot not being received in Honolulu, Hawaii by the March 30, 1991 count date

Thus, the Election Officer Regional Coordinator arranged for the ballots to be delivered, via an express courier, to the employer's site administrator on Guam<sup>1</sup>. The ballots were received by the site administrator on March 11, 1991 together with a written notice of voting instructions, which stated that the completed ballots should be mailed by the voting members to Hawaii no later than March 21, 1991 so as to assure arrival in time for the March 30, 1991 count. Regular mail delivery from Guam to Hawaii takes 6 to 7 days.

The protestor was then ordered, in his capacity as Chief Steward, to post this notice on the Union bulletin board. On the stated ground that he was not part of the election process, the protestor refused to comply with this directive. The site administrator then inserted in each member's secured mail box a copy of the notice and the mail ballot packet which contained instructions, the ballot, a secret ballot envelope and a stamped and addressed return envelope.

The protestor complains that, by utilizing the employer rather than the Union, as the agent for performing these election functions, the Election Officer has undermined the equality in the relationship between the Employer and the Union.

In an opinion and order entered July 10, 1990, the United States District Court for the Southern District of New York, by Judge David N. Edelstein rejected the concept of any local union participation in any portion of the balloting process, stating

"The final election rules leave many critical election functions to the officers of local unions. This situation is unacceptable, since these same officers who will be conducting the elections for the international convention will have great personal stakes in the election's outcome. In order for these elections to accomplish their mission, the rank and file must have confidence in the election process.

Complete supervision of all facets of the election process is the only way to guarantee the integrity of the elections and encourage rank and file participation. To that end, the Election Officer must oversee each and every facet of the election in order to prevent any possibility of fraud, coercion, intimidation, harassment, or threat in any of its varied forms.

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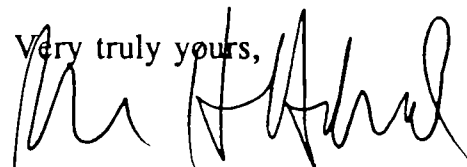
<sup>1</sup>The Election Officer took this action only after inquiring of the United States Department of Labor as to whether that government department had personnel on Guam that could be deputized to distribute ballot packages. The U S D O L indicated to the Election Officer that it had no such personnel at Guam.

Alfred Dilks  
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Judge Edelstein then ordered that the proposed *Rules* be amended to achieve this objective. Numerous modifications were ordered relating to the voting procedures in Article XII of the *Rules*. The Court directed that the handling of the ballots be within the responsibility of the Election Officer and not the local union. See Election Advisory--Judge Approves and Modifies Election Rules, Article XII, Sections 1(b) and (c) of the revised *Rules* were accordingly amended.

The contention of the protestor, that the ballots should have been sent to him for handling in his capacity as Chief Steward, is irreconcilable with the revised *Rules* and with the Court's Order of July 10, 1990. Given the inability to directly mail the mail ballot packets to the Local 996 members domiciled in Guam and the inordinate cost of sending an Election Officer representative to Guam to distribute the ballots, the Election Officer directed a subcontractor hired by and responsible to the United States of America to distribute the ballots. The Election Officer's directive was in accordance with the *Rules* and the Court's Order of July 10, 1990, and ensured the ability of Local 996 members domiciled in Guam to participate in the election process. There is no allegation or suggestion that the Election Officer's direction in any way interfered with or undermined the ability of such members to participate or that their participation was restricted in any manner. Accordingly, the protest is therefore **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/ads

cc Frederick B. Lacey, Independent Administrator  
Bruce Boyens, Regional Coordinator

IN RE

ALFRED DILKS

and

GUAM BARGAINING UNIT

and

IBT LOCAL UNION NO 996

91 - Elec App - 130 (SA)

DECISION OF THE  
INDEPENDENT  
ADMINISTRATOR

This matter arises out of an appeal from a March 20, 1991, decision of the Election Officer in Case No. [REDACTED]. A hearing was held before me by way of telephone conference on April 19, 1991, at which the following persons were heard the complainant/appellant, Alfred Dilks, Bert T. Warashina, on behalf of Local 996; and John J. Sullivan, on behalf of the Election Officer.

Alfred Dilks is a member of Local 996 and Chief Steward for the bargaining unit located in Guam. The Guam Bargaining Unit is comprised of approximately 35 members employed by Loral Space and Range Systems ("Loral"). Loral is a subcontractor of the Guam Tracking Station at the Anderson Air Force Base on Guam and, thus, a subcontractor of the U S Government. Mr Dilks alleged that by requesting Loral to distribute ballot packages to IBT members through employee mail drops, the Election Officer impermissibly involved the employer in the election for delegates and alternate

delegates to the 1991 IBT International Convention. The election was conducted by mail ballot As explained by the Election Officer in his Summary:

The election process encountered certain logistical difficulties as a result of the geographical location of the bargaining unit in Guam. The primary obstacle was the amount of time it takes mail to reach Guam when sent through the normal channels utilized by the Election Office. More specifically, the only address available to the Election Officer for members of Local 996 who reside in Guam is "APO San Francisco." The Election Officer was advised by the United States Postal Service and the United States Armed Forces, the Postal Service for APO mail after such mail arrives at the APO address, that he should allow two or three weeks for delivery of the ballots through mail distribution via the APO system.

The ballots for the Local 996 delegate and alternate election were mailed to the membership of Local 996 in early March. The ballots were to be counted on March 30. The Election Officer feared that if insufficient time were available for the transportation of ballots to and from the members in Guam, they could effectively be disenfranchised by their inability, through no fault of their own, to return the ballots by the time of the count. Accordingly, the Election Officer explored alternative means of ballot delivery.

The Election Officer further recognized that it would have been inappropriate to distribute ballots to the members employed in Guam either through the Local itself or through Mr. Dilks. As stated by United States District Judge David N. Edelstein in United States v IBT, 742 F. Supp. 94, 106 (S D N.Y. 1990), aff'd, slip op. (2d Cir. April 12, 1991), it "is unacceptable" to delegate "critical election functions to the officers of local unions "

The Election Officer also inquired whether the ballots could be transmitted to members employed in Guam via the United States Department of Labor's Guam office. The Election Officer was told,

however, that the U.S. Department of Labor did not have any personnel in Guam which the Election Officer could deputize for purposes of receiving and distributing the ballots

Thus, the Election Officer turned to the alternative of utilizing the employer. Loral maintains employee mailboxes or "pigeon holes" for distribution of internal mail. As explained by the Election Officer in his Summary:

In response to the Election Officer's inquiry, Loral agreed to place the ballots in the members' mail boxes. The Election Officer then arranged for delivery of the ballot packets via an express courier to the site administrator for Loral, who received them on March 11 with a written notice of voting instructions. Those instructions notified members to mail their ballots to the designated post office address in Honolulu by March 21 to ensure arrival by the time of the count on March 30. Mail generally takes six or seven days between Guam and Hawaii.

The ballots for Local 996 have been counted. The difference between the lowest vote-getting winning delegate candidate and the highest vote-getting losing delegate candidate far exceeds 35 votes -- the number of members living in Guam. The same holds true for the alternate delegate count. Thus, Mr. Dilks acknowledged that it would serve no purpose to rerun the balloting procedure for the 35 members stationed in Guam.

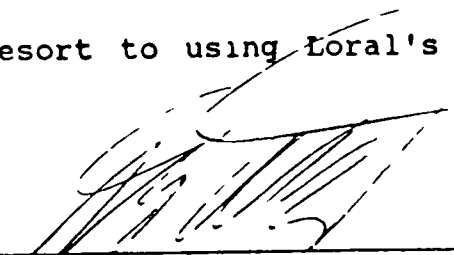
Notwithstanding the final tally, the Election Officer defends his actions. As stated by the Election Officer in his Summary:

The employer was only involved in a minimal, ministerial capacity as a last resort after other avenues had been explored to no avail. The action of Loral in distributing envelopes to members' mail boxes -- especially since the members were apparently unaware of how the envelopes got there -- was insufficient to uphold

the protest and is insufficient to warrant a new election.

I agree

The Election Officer, at the hearing before me, further noted that if he were able to get actual Guam mailing addresses, he would be able to coordinate the mailing (or hand-delivery), of the ballots for the election of International Officers to be conducted in December of 1991. Mr. Dilks indicated that he would indeed prefer an alternative means of ballot distribution for the December election. Thus, I ask Mr Dilks to cooperate with the Election Officer in getting the Election Officer the information he would need to either mail the ballots directly to the members in Guam or hand-deliver those ballots to them. If, however, the Election Officer does not receive the information he needs to distribute the ballots in December, he may, if he decides that doing so is the best available alternative, again resort to using Loral's mail drops



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

Dated: April 22, 1991