



OFFICE OF THE ELECTION OFFICER  
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Election Officer

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March 21, 1991

**VIA UPS OVERNIGHT**

David P Perry  
820 Lawn Court  
Tracy, California 95376

Joseph Di Prisco  
Secretary-Treasurer  
IBT Local Union 302  
492 C Street, Suite A  
Hayward, California 94541

Ralph J Torrisi  
Secretary-Treasurer  
IBT Joint Council 7  
150 Executive Park Boulevard  
Suite 2900  
San Francisco, California 94134-3392

**Re: Election Office Case No. P-675-LU302-CSF**

Gentlemen

A pre-election protest was filed in accordance with Article XI, Section 1 of the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("*Rules*") The protestor is David P Perry, Vice President of Local Union 302 and candidate in Local 302's upcoming delegate election In his protest, Mr Perry requests that, in the event that he is elected as a delegate, the Election Officer delay the implementation of a recent Joint Council No 7 decision suspending him from membership and employment with Local Union 302 until after the June 1991 IBT International Convention

The investigation disclosed the following facts On March 13, 1991, the Executive Board of Teamsters Joint Council No 7 suspended Mr Perry based on intra-Union charges filed by Mr Di Prisco and various members of Local 302's Executive Board<sup>1</sup> The charges involved allegations that Mr Perry taped an Executive Board meeting in violation of the IBT Constitution and Local 302's bylaws, despite the fact that

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<sup>1</sup>Mr Di Prisco is the Secretary-Treasurer of Local 302 and also a candidate in Local 302's upcoming delegate election and is running against Mr Perry The record reflects that Local 302's delegate election campaign is highly contentious Both Mr Perry and Mr Di Prisco have filed numerous protests alleging that the other has engaged in *Rules* violations

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Mr Perry was ordered by the Executive Board during the meeting to shut the tape recorder off. The charges further allege that Mr Perry surreptitiously circulated the tape to various members of the Local

Mr Perry's suspension until June 30, 1991 by Teamsters Joint Council No 7 could, if he is elected, affect his eligibility to receive credentials as a delegate at the June 1991 IBT International Convention. See Article IV, Section 2 of the *Rules*. Accordingly, Mr Perry requests that the Election Officer delay the suspension until after the Convention, so as to enable him, if he is elected, to serve as Local 302's duly elected delegate at the June 1991 IBT International Convention.

Generally speaking, the Election Officer will not exercise jurisdiction over matters related to the filing of intra-Union charges. However, notwithstanding that fact, the Election Officer will not permit suspensions related to intra-Union matters of this nature to interfere with an elected delegate's right to be seated at the Convention. The nature of the allegations raised in the charges which led to Mr Perry's suspension are not of the type, standing alone, as would be deemed to interfere with Mr Perry's right, if elected, to be certified and credentialed as a delegate at the 1991 IBT International Convention.

The Election Officer's decision in this matter is, in part, based on the fact that the Union had discretion to determine the dates of the suspension it imposed. The Election Officer notes that the dates of the suspension may well have been aimed at rendering Mr Perry ineligible to be seated as a candidate.<sup>2</sup> Accordingly, I find that Joint Council No 7's suspension of Mr Perry, standing alone, will not affect his ability to be credentialed as a delegate, if elected, at the IBT International Convention in June, 1991. My decision in this matter does not operate to otherwise effect, overrule, or suspend Mr Perry's suspension by the Joint Council.

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)

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<sup>2</sup>The hearing before the Joint Council on the charges against Perry was conducted on February 27, 1991. The Joint Council decision was reached on March 13, 1991 and communicated by letter to Perry on March 14, 1991. The record reflects that the dates of the suspension (April 1, 1991 through June 30, 1991) may well have been chosen in such a manner as to cause Mr Perry to be subjected to challenge or declared ineligible to be credentialed as a delegate, if elected, to the 1991 IBT International Convention. Clearly, the Union had the discretion to order the suspension in such a way that Mr Perry's eligibility to be seated as a delegate, if he won his election, would not have been affected.

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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 fluid and cursive, with a long horizontal stroke at the end.

Michael H Holland

MHH/ads

cc Frederick B Lacey, Independent Administrator  
Donald E Twohey, Regional Coordinator