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Election Officer

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March 28, 1991

VIA UPS OVERNIGHT

Anthony Rutledge
615 Puikoi St , 18th Floor
Honolulu, HI 96814

Harold De Costa
President
IBT Local Union 996
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Suite 102
Honolulu, HI 96817

Julio Quirocho
c/o Local 996
904 Kohou St
Suite 102
Honolulu, HI 96817

Re: Election Office Case No. P-700-LU996-RMT

Gentlemen

A pre-election protest has been filed pursuant to Article XI of the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("Rules") In his protest, Anthony Rutledge, Vice President of Local 996 and a candidate for delegate on the Chambrella-Rutledge Unity Team Slate, alleges that Harold De Costa, the President of Local 996, and candidate for delegate on the De Costa Slate, has improperly used the Union financed newspaper, Teamster Times for campaign purposes

The investigation discloses the following facts Teamster Times, the official publication of Local 996, is published on a somewhat irregular, albeit quarterly schedule For example, an issue was published in October, 1990, in December, 1990, and the current issue which is the subject of this protest was published on March 11, 1991

A review of the March issue of the newsletter shows it to be an eight-page publication featuring articles about contract negotiations, grievance resolutions, and an article about Teamster members who have been named "Employee of the Month" by their employers There is additionally a notice explaining the delegate election The

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newsletter carries a column styled President's Report by Harold De Costa on page 2. The column also features a photograph of De Costa. In size and substance the newspaper is not substantially different from previous issues.

There are a large number of photographs carried throughout the newspaper, including a collage of photographs on page 7 headlined "Teamsters Family Album". There are a total of twenty photographs carried in the newspaper. De Costa appears in three of these photos in addition to the photograph carried with his column. There additionally one photograph of Business Agent Glenn Ida who is on De Costa's slate - there are no articles or photographs featuring other slate members.

The Election Officer concludes that the newspaper does not feature or carry an unusually large number of articles by or photographs of De Costa or other members of his slate. The articles and pictures that appear in the newsletter relate primarily to the collective bargaining function of the Local, reporting on the results of various negotiations. Moreover, the articles all appear newsworthy. Thus, the contents of the newspaper do not constitute Union financed campaigning prohibited by Article VIII, § 7 of the *Rules*.

Rutledge states, however, that the newspaper has historically carried a column by him as Vice President, Rutledge contends that this column was omitted in the March issue, to disadvantage him and his slate. He contends that this is a denial of equal treatment by the Local and a violation of the *Rules*.

The Election Officer notes, however, that the Secretary-Treasurer, a candidate on De Costa's slate, has also written columns in the past, and this column was also omitted in the March issue. Thus, the decision to print only a column by the President rather than all three officers of the Local may well have been motivated by a desire to devote more column inches to news features rather than editorials. Moreover, Rutledge's name is contained in the newspaper among the listed officers of the Local. This aspect of the protest is DENIED.

Rutledge also argues that the newspaper mailing was timed to reach the membership in this Local simultaneous with the member's receipt of the ballots for the delegate election. The evidence shows that the original scheduled date for the mailing of the newsletter was March 1, 1991. Due to the printer's unexpected decision to close his facility from February 25 - 28, the newspaper copy was delivered to the printer for printing and distribution on March 6, 1991. The printer required nearly a week to complete the work and the newspaper was not mailed until March 11, 1991. The ballots in this election were mailed on March 7, 1991.

The Election Officer concludes under these facts that the evidence is insufficient to demonstrate that the date of the distribution of the newspaper was intentionally timed to coincide with the ballot mailing. This aspect of the protest is also denied.

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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", with a long horizontal flourish extending to the right.

Michael H. Holland

MHH/mca

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