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March 26, 1991

VIA FACSIMILE AND UPS OVERNIGHT

Gene E Davis
3721 Eckert Road
Freeport, MI 49509

Ken DeVries
Secretary-Treasurer
c/o The Team 406 Slate
IBT Local Union 406
3315 Eastern Ave , SE
Grand Rapids, MI 49508

James E Tol
788 Bungalow, SW
Wyoming, MI 49509

Re: Election Office Case No. P-703-LU406-MGN

Gentlemen

Pre-election protests were filed pursuant to the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("Rules") Both of these protests contend that Ken DeVries, Secretary-Treasurer of Local 406 and a candidate on the Team 406 Slate for delegate to the 1991 IBT International Convention in the rerun election for Local 406 being conducted by the Election Officer, utilized Union resources to effectuate a mailing to all Local Union members. The protest contends that the materials mailed constituted campaign literature supportive of Mr DeVries and the other members of his slate

It is undisputed that the mailing was accomplished with Local Union funds The mailing consisted of one page letter on Local 406 stationery, signed by Mr DeVries, and a one page excerpt of the multi-page Election Officer Summary prepared by the Election Officer and submitted to the Independent Administrator in the appeal of the Election Officer's decision in Election Office Case No Post-10-LU406-MGN, the decision ordering a rerun delegate and alternate delegate election with respect to Local 406

Neither the one page letter nor the excerpt from the Election Officer Summary constitute campaign literature per se The material neither extols Mr DeVries or the other members of his slate, nor denigrates the delegate and alternate delegate candidates running against the Team 406 Slate While the letter urges that all Local 406 members

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participate in the rerun election, the material does not urge that they vote for any particular candidates or slate of candidates

Nonetheless, the mailing is misleading with respect to actions taken by the Election Officer and the Independent Administrator. The one page excerpt of the Election Officer Summary did not indicate that it is only an excerpt of the Summary prepared and submitted by the Election Officer. Further, the excerpt does not fully explain the basis for the Election Officer's determination to hold a rerun election for delegates and alternate delegates to the 1991 IBT International Convention from Local 406. Nor does it indicate the totality of Mr. DeVries' involvement in the pre-election protest eligibility proceedings. The accompanying letter signed by Mr. DeVries also does not note the extent of Mr. DeVries' involvement in the pre-election eligibility protest process in the same manner as that involvement is described in the Election Officer Summary, that is, in its full as opposed to excerpted form.

The mailing by the Local Union of only an excerpt of the Election Officer Summary in the post-election protest which resulted in a determination to rerun the delegate and alternate delegate election with respect to 406, and the failure to include any reference to the Independent Administrator's decision affirming the Election Officer's determination, leads to a potential for misunderstanding as to the bases for the Election Officer's determination, and the Independent Administrator's affirmance of that determination to order a rerun election.

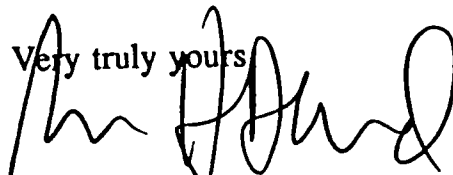
The financing of such a misleading communication about Election Officer and Independent Administrator actions by Local Union 406 is thus violative of the *Rules*. The material produced and mailed by the Local, contains only a portion of the Election Officer Summary, fails to state that the material is but a portion, and omits that portion which covers Mr. DeVries' involvement in the pre-election eligibility protest process. The mailing makes no reference to the Independent Administrator's decision. The mailing has a potential for influencing the election. Since it was produced and mailed with Local Union funds, it violates the *Rules*. See Article VIII, § 6 and 7.

To remedy this violation, the Election Officer orders the Local Union to post on all Union bulletin boards at the Local Union office and at all worksites (1) a full, unredacted copy of the Election Officer Summary in Election Office Case No. Post-10-LU406-MGN, (2) the full decision of the Independent Administrator in that case and (3) the attached letter to the membership from the Election Officer. Such posting shall be completed by the close of business on Thursday, March 28, 1991.

The Election Officer further orders the Local Union to bear the costs of a mailing to all members of Local Union 406 of the same documents. The Election Officer will duplicate and mail the attached letter, the Election Officer Summary, and the decision of the Independent Administrator to all members of Local 406. Local Union 406 will reimburse the Election Officer for his costs. The Election Officer further holds that any appeal from this decision shall not stay compliance with the remedies here imposed. See *Rules*, Article XI, § 2 (z).

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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,

Michael H. Holland

MHH/mca

cc Frederick B. Lacey, Independent Administrator
James De Haan, Regional Coordinator (via Facsimile)