

***POST-ELECTION
PROTEST
DECISIONS***

ELECTION OFFICE CASE NOS.

POST-31-LU396-CLA to POST-60-LU325-CHI

VOLUME II

***Michael H. Holland
Election Officer
June 1992***

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March 5, 1991

VIA UPS OVERNIGHT

Jimmy Clyde Sparks
6531 E Paseo Alcazaa
Anaheim Hills, California 92807

Bill Leon Huff
c/o Bill Huff Slate
610 North Vine Street
Anaheim, California 92805

Carl Lindeman
Secretary-Treasurer
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3435 Wilshire Boulevard
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Los Angeles, California 90010

Jeffrey Witherille
c/o Jeffrey Witherille
for Ron Carey Slate
17605 Enadia Way
Van Nuys, California 91406

Re: Election Office Case No. Post31-LU396-CLA

Gentlemen:

A post-election protest was 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, Jimmy Clyde Sparks, claims that, in the Local 396 delegate and alternate delegate election held on February 19, 1991, the ballots were miscounted. The protestor seeks a recount of the ballots. He does not seek to review determinations made by the Election Officer on void ballots, challenges or voter eligibility. He does not protest the conduct of any candidate or observer.

The Regional Coordinator for the Los Angeles area, as well as other Election Officer personnel present at the counting, state that the ballot tabulation did not proceed as expeditiously or smoothly as one would hope it would proceed. The ballot for Local 396 was particularly lengthy. Eleven delegates and three alternate delegates were to be elected. Four separate slates of delegate and alternate delegate candidates appeared on the ballot. In addition, the ballot, which was a mail ballot, was printed in both English and Spanish. Due to the ballot's dimensions, it was necessary for it to be folded a number of times in order for it to be inserted in the return ballot envelope.

As a result of these multiple folds, the electronic voting machine used to tabulate the ballots initially refused to accept the ballots and tabulate them. The ballots had to

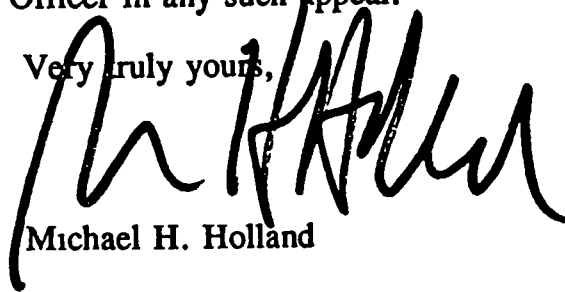
Jimmy Clyde Sparks
Page 2

be manually smoothed in order for them to be inserted in the electronic machine and tabulated. As a result of the multiple folds, as described above, rejection occurred with respect to almost all of the ballots; with many of the ballots, multiple rejections occurred.

The electronic voting machine utilized to tabulate ballots in the delegate and alternate delegate election for Local 396 does not record a vote on any rejected ballot. Only when the machine accepts the ballot is a vote recorded. The Election Officer investigation discovered no discrepancies between the voted ballots and the final tally of votes as the result of the voting machine or otherwise. The Election Officer is cognizant, however, that the problems encountered on February 19, 1991 with respect to tabulating the ballots might have given the appearance of an improper count being recorded. For this reason, to insure all candidates and observers that the ballot count was and is proper, the Election Officer Regional Coordinator will recount the ballots cast for the delegate and alternate delegate election with respect to Local 396. All candidates and observers will be notified by the Election Officer as to the date and place of the recount.

If any person is not satisfied with this determination, he may request a hearing before the Administrator within twenty-four (24) hours of his receipt of this letter. Such request shall be made in writing and shall be served on Administrator Frederick B. Lacey at LeBoeuf, Lamb, Leiby & MacRae, One Gateway Center, Newark, N J 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. 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.

Very truly yours,



Michael H. Holland

MHH/mca

cc Mr Frederick B Lacey, Independent Administrator
Geraldine L Leshun, Regional Coordinator