



OFFICE OF THE ELECTION OFFICER  
% INTERNATIONAL BROTHERHOOD OF TEAMSTERS  
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Election Officer

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April 4, 1991

**VIA UPS OVERNIGHT**

Rodney Dize  
Secretary-Treasurer  
c/o Local 557  
6000 Erdman Ave  
Baltimore, MD 21205

John D. Clemens  
President  
c/o The Straight  
Forward Slate  
IBT Local Union 557  
6000 Erdman Ave.  
Baltimore, MD 21205

Philip DelCostello  
c/o The Solidarity Slate  
2204 Terry Ave.  
Edgewood, MD 21040

Jerome B. Werner  
c/o The A Team Slate  
4611 Woodlea Ave.  
Baltimore, MD 21206

Clifton MacDonald  
8618 Bramble Lane  
Randallstown, MD 21133

Ronald Harmon  
9206 Teakwood Rd.  
Baltimore, MD 21234

Emory McGloughin  
6200 Breezewood Dr.  
Apt #102  
Greenbelt, MD 20770

**Re: Election Office Case No. Post-54-LU557-MID**

Gentlemen

A post-election protest was filed by Mr. Ronald Harmon on March 17, 1991 pursuant to the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("*Rules*") alleging that Local President Philip DelCostello delayed his campaign mailing thus depriving him of a fair opportunity to campaign.

The election for three delegates and one alternate at Local 557 took place on March 16, 1991. There were three slates on the ballot: the A Team Slate, headed by Jerome B. Warner, the Straight/Forward Ticket Slate, headed by Frank V. Imbragulo and John D. Clemens, and the Solidarity Team Slate, including incumbent President

Philip DelCostello and Recording Secretary Mary (Sue) Erby, as well as independent candidates including Mr. Ronald Harmon. 597 ballots were cast, of which 3 were void. The results of the election were as follows:

<u>For Delegate</u>	<u>Votes</u>
F V. Imbragulo	244
Mary (Sue) Erby	215
Philip DelCostello	213

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Frank W. Calvert	186
Rodney Dize	180
John D. Clemons	180
Clifton McDonald	129
Ronald Harmon	68
Emory McGlothlin	52
F L Costley, Sr.	26
Jerome B. Werner	26

For Alternate Delegate

Martin Cross	204
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Ed Wenker	179
Robert Frenz	50
William J Sank	46

The margin of victory between the lowest ranking winner (Philip DelCostello - 213 votes) and Mr Harmon (68 votes) was 145 votes.

Ronald Harmon claims that President Philip DelCostello improperly delayed the mailing of his campaign literature. Mr Harmon had originally written to the Local on February 22, 1991 indicating that he intended to make a campaign mailing using labels produced by the Local to all members in good standing. He subsequently communicated to the Local that he intended to send that mailing on March 4, 1991. Mr Harmon indicated to the Local Union that he would arrive at 12 00 pm to place the labels on the mailing envelopes which he had prepared. He actually arrived at approximately 3 00 pm and was immediately provided with the labels. It took him until approximately 5 45 pm to complete the task of attaching the labels to the envelopes. Mr. Harmon indicated to Mr DelCostello at that time that he intended to go to the Post Office to make the campaign mailing. DelCostello asked him to call the Post Office because he was concerned that it was too late in the day for the Post Office to accept the mailing at that time.

A dispute then ensued between Harmon and DelCostello. Mr. DelCostello indicated that he did not want Harmon to leave the Local hall with the labels on his literature since this constituted a mailing list of the Local and he, as President, was responsible for seeing that that mailing list was not reproduced or otherwise used for some other purpose than the campaign mailing itself. Mr. Harmon indicated that he believed that it was his right to leave the Local hall with "my mailing."

When this dispute became animated, Mr. DelCostello called the police to protect what he considered to be property of the Local. Prior to this time, the Local hall's door was locked at 5:00 pm as it typically is at the close of business.

Mr. Harmon was inside the Local hall when the police arrived. The police suggested that the entire box of campaign letters with labels be placed in the Local's safe and that tape be placed around the box which could be signed by all parties. Mr. DelCostello agreed, but Mr. Harmon did not and he called Adjunct Regional Coordinator Ronald Webne. Mr. Webne suggested that Mr. Harmon call the Post Office to ascertain whether it was too late to make the mailing that day and that, if so, appropriate arrangements be made to secure the mailing in such a manner that all parties could insure that no one had tampered with the mailing if it had to be held overnight. Ultimately, Mr. Harmon agreed to put the mailing into the Local's safe.

Mr. Harmon indicated that he would return to the Local hall at 12:00 noon the next day to pick up the mailing and take it to the Post Office. He actually arrived at approximately 2:30 pm and a dispute arose concerning the transportation of the mailing to the Post Office. Mr. Harmon insisted that the mailing be placed in his car. Mr. DelCostello insisted that the mailing be placed in the trunk of Mr. Jean Thomas, who is a trustee of the Local and a dispatcher in the Local's hiring hall. When Mr. Harmon and Mr. DelCostello could not agree with regard to this matter, they called Regional Coordinator Grant Crandall, who suggested that the two of them sit down and try to resolve this matter in a reasonable fashion. The parties attempted to do so, but when Mr. DelCostello insisted that the practice of the Local had been for the mailing to be placed in the observer's trunk and that Mr. Harmon could follow in his car, Mr. Harmon disagreed and left the Union hall.

On Wednesday, March 6, both Mr. Harmon and Mr. DelCostello contacted Regional Coordinator Crandall. They presented differing versions about the past practice of the Local in terms of the method for transporting the campaign mailing to the Post Office. Finding it unnecessary to ultimately resolve the question of the specific past practice of the Local, Mr. Crandall suggested to Mr. DelCostello that although the *Election Rules* did not specifically require that the mailing be placed in the candidate's trunk, this matter needed to be resolved. Mr. Crandall suggested in the interest of getting the mailing out that day, that Mr. DelCostello defer on this matter and permit Mr. Harmon to put the mailing in his trunk. Mr. Thomas, the observer, then followed Mr. Harmon to the Post Office and the mailing was in fact sent out on March 6, 1991.

The mail ballots had been sent out with regard to Local 557's election on February 26, 1991 and were to be returned for counting on March 16, 1991.

With regard to the dispute at the end of the business day on Monday, March 4, 1991, which ultimately led to the calling of the police, both parties had legitimate concerns. Mr. Harmon was concerned to protect the integrity of his mailing and to see to it that his campaign literature was not tampered with. At the same time, Mr. DelCostello legitimately sought to protect the integrity of the Local's mailing list. With the intervention of the police and the cooling of heated feelings, this matter was resolved in a reasonable fashion by the placing of the mailing in the Local's safe with proper safeguards to prevent tampering. Although this experience was a trying one for both parties, there is no violation of the *Election Rules* with regard to this conduct. It is not unusual in a heated election campaign for sensibilities to be ruffled and in this case the matter was ultimately handled reasonably by all concerned.

The delay between Monday, March 4 and Tuesday, March 5 was not the fault of Mr. DelCostello. Mr. Harmon had come to the Local Hall at approximately 3:00 pm and could not complete the affixing of the labels on his campaign mailing prior to the time when the Post Office closed for the day. The dispute that arose on Tuesday, March 5 concerning whether the mailing would be placed in the trunk of the observer or in Mr. Harmon's trunk appeared to the parties to revolve around the issue of the past practice of the Local. The Election Officer does not believe that the past practice in this instance was controlling since a reasonable method for the transportation of the campaign mailing to the Post Office was provided by the Local Union. Mr. DelCostello was at all times willing to have the campaign mailing transported to the Local Union in a fashion which was neutral and guaranteed its security during transport. This method would have been to place the campaign mailing in the sealed trunk of the observer and to allow Mr. Harmon to follow immediately after the observer's vehicle or to ride with the observer to the Post Office. Mr. Harmon declined this reasonable method and thus the one-day delay between March 5 and March 6 in the ultimate mailing of this campaign literature is at least in substantial part the responsibility of Mr. Harmon.

Even if it were assumed, arguendo, that the entire two-day delay between March 4, 1991, when Mr. Harmon initially came to the Local hall to do the mailing and Wednesday, March 6, 1991, when the mailing was ultimately made, was due to the fault of the Local Union, it may not reasonably be concluded that this delay in the campaign mailing would have affected the outcome of the election.

Article XI, § 1 (b)(2) of the *Rules* provides that "Post-election protests shall only be considered and remedied if the alleged violation may have affected the outcome of the election." For a violation to have affected the results of the election, there must be a meaningful relationship between the violation and the results of the election. See Wirtz v. Local Unions 410, 410(A), 410(B) & 410(C), International Union of Operating Engineers, 366 F.2d 438 (2nd Cir. 1966). Mr. Harmon did not seek to have his campaign literature mailed until March 4, 1991, some six days after the ballots had been mailed for Local 557's election. The two-day delay in this mailing cannot, in view of

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the 145 vote margin between Mr Harmon and the lowest ranking elected delegate candidate cannot be said to have impacted the election results. Moreover, as recounted previously, the first day of the delay resulted in the timing of Mr Harmon's completion of the affixing of the labels on his literature, a matter not under the control of the Local. Moreover, the additional day of delay resulted at least in substantial part by Mr. Harmon's refusal to accept the reasonable method for transporting the campaign mailing to the Post Office offered by the Local Union.

Accordingly, the post-election protest of Mr Harmon is 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/mca

cc Frederick B Lacey, Independent Administrator  
Grant Crandall, Regional Coordinator