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Election Officer

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November 13, 1991

VIA UPS OVERNIGHT

Louie F. Rodriguez
c/o Teamsters Local 952
140 S. Marks Way
Orange, CA 92668

Pete Espudo
President
Teamsters Hispanic Caucus
18597 Valley Blvd.
Bloomington, CA 92316

Walter Shea
c/o Robert Baptiste, Esquire
Baptiste & Wilder
1919 Pennsylvania Avenue, N.W.
Suite 505
Washington, D.C. 20006

R. V. Durham
c/o Hugh J. Beins, Esquire
Beins, Axelrod, Osborne
& Mooney
2033 K Street, N.W.
Suite 300
Washington, D.C. 20006-1002

Ron Carey
c/o Richard Gilberg, Esquire
Cohen, Weiss & Simon
330 West 42nd Street
New York, NY 10036-6901

Re: Election Office Case No. P-1062-IBT

Gentlemen:

A protest was filed pursuant to Article XI of the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("*Rules*"), concerning the Teamsters Hispanic Caucus. Louie F. Rodriguez, an Executive Board Member of the Teamsters Hispanic Caucus, alleges that the Teamsters Hispanic Caucus violated the *Rules* prohibiting the Union from making a campaign contribution to the candidacy of any IBT International Union candidate when the Teamsters Hispanic Caucus conducted a poll of its members and subsequently endorsed the R. V. Durham Unity Team.

Many of the issues raised in this protest are similar to the protests filed against the National Black Caucus (Election Office Case Nos. P-955-IBT and P-1005-IBT) and the Teamsters for a Democratic Union (In Re Gully, 91-Elec. App.-158 affirming Election Office Case No. P-249-LU283-MGN) which the Election Officer has previously resolved.

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I. Legal And Factual Background

Article X, § 1(b)(1) of the *Rules* prohibits contributions from employers, foundations, trusts and labor organizations, whether or not such labor organizations are affiliated with the IBT. Article X, § 1(b)(3) of the *Rules* prohibits the use of any Union funds or goods to promote the candidacy of any individual. Use of Union equipment, stationery, facilities or personnel is strictly prohibited unless the Union is compensated for such use by the candidate and all candidates are provided equal access. The term "Union" is defined to include the IBT and all of its subordinate bodies. *Rules, Definitions, ¶ 39 at A-8.*

There is an exception, however, to these prohibitions. Article X, § 5 of the *Rules* states:

Nothing herein shall prohibit any candidate from accepting contributions made by any caucus or group of Union members or any campaign organization or any candidate, provided that such caucus, group or campaign organization is itself financed exclusively from contributions permitted under these *Rules*.

An entity otherwise prohibited from making campaign contributions under the *Rules* may make such contributions if: (a) it is a caucus of Union members; (b) it properly allocates and segregates resources obtained from persons or entities prohibited from making campaign contributions under the *Rules* from those received from persons or entities permitted to make such contributions; and (c) utilizes only the latter resources with respect to its campaign activities. *In re Gully, supra.*

The Teamsters Hispanic Caucus was established prior to the 1991 International Union officer election campaign and the entry of the Consent Order on March 14, 1989, as a special interest group within the IBT. The Teamsters Hispanic Caucus was established and exists to address issues of special concern to Hispanic-Americans, and particularly Hispanic members of the IBT. Membership is open to IBT members, but no IBT member is required to join the Teamsters Hispanic Caucus. Membership is voluntary and does not affect the member's rights under the IBT International Union Constitution or the by-laws of any Local Union; similarly, membership has no impact on the wages, hours or other terms and conditions of employment of any IBT member. The Teamsters Hispanic Caucus is a caucus of Union members within the meaning of Article X, § 5 of the *Rules* and is thus permitted to make campaign contributions, and candidates for IBT International Union office are permitted to accept contributions from it, provided that the resources contributed are themselves derived exclusively from contributions otherwise permitted under the *Rules*. *In re Gully, supra.*

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The Teamsters Hispanic Caucus is funded in part by the IBT and subordinate bodies of the IBT. It has endorsed the R. V. Durham Unity Team; an endorsement is a campaign contribution within the meaning of the *Rules*. See In Re Durham Unity Team and Committee to Elect Ron Carey, 91-Elec. App.-183, affirming Election Office Case No. P-651-IBT. That a caucus of Union members receives and utilizes funds from an entity prohibited from making campaign contributions under the *Rules*, while the caucus itself simultaneously makes campaign contributions, does not violate the *Rules*, if the caucus segregates the funds it receives and utilizes only funds received from persons and entities entitled under the *Rules* to make campaign contributions for the caucus' own campaign activity. Obviously, none of the resources it receives—including in-kind contributions such as the right to use office equipment or supplies—from the IBT or a subordinate body of the IBT may be utilized for campaign purposes unless reimbursement or payment is made by the Teamsters Hispanic Caucus from Caucus resources obtained by persons or entities entitled to make campaign contributions under the *Rules*.

II. The Protest

With these principles in mind, the Election Officer has reviewed the allegations of the protest at issue here. With respect to Mr. Rodriguez's contention that the Teamsters Hispanic Caucus violated the *Rules* by endorsing the R. V. Durham Unity Team, the discussion above demonstrates that the *Rules* were not violated by such endorsement provided that all funds utilized in making such endorsement or publicizing such endorsement were funds derived from persons or entities otherwise entitled to make contributions under the *Rules*. To ensure that only permitted resources have been or will be used by the Teamsters Hispanic Caucus for its endorsement or other campaign activities, i.e., campaign contributions under the *Rules*, the Election Officer orders the Teamsters Hispanic Caucus to file reporting and disclosure reports with him. Advisory on Campaign Contributions and Disclosure, issued August 14, 1991 ("Advisory") at page 27. Those reports must include the totality of all monies received by the Teamsters Hispanic Caucus—including cash and in-kind contributions not received nor expended for campaign-related purposes for the period from August 27, 1991—as well as all monies expended for campaign-related purposes since that date. By this decision, the Teamsters Hispanic Caucus is also ordered and required to submit within seven (7) days of the date of this letter Pre-Election Report No. 2, which was due to be filed on November 10, 1991, and to timely submit the Post-Election Report, due seven (7) days after the conclusion of the International Union officer election, and the Final Report, due on or before January 17, 1992.¹

¹ Because of the importance of the Election Officer receiving such information, an appeal of this portion or any portion of his decision shall not stay the requirement that the Teamsters Hispanic Caucus file Pre-Election Report No. 2 within seven (7) days of

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Further, given the possibility that Union funds may have been used to reimburse payment of the Teamster Hispanic Caucus members' dues and/or other small contributions, such as the purchase of fundraising tickets--and the strict prohibition of any Union funds being used to influence the 1991 International Union officer election--the Election Office shall require the Teamsters Hispanic Caucus to itemize by name, address, and Local Union number all contributions it has received, regardless of the amount of the contribution. The itemization of contributors who have individually contributed \$100 or less shall be submitted within 14 days of the date of this letter; the itemization of those contributors who contribute \$100 or less shall not be disclosed by the Election Officer.

Upon receipt of such reports, the Election Office will review them and conduct the Teamsters Hispanic Caucus relating to its endorsement of the R. V. Durham Unity Team and/or other campaign activities were funds obtained from persons or entities otherwise entitled to make campaign contributions under the *Rules*. Such further investigation may include contacting the members who made contributions and/or their Local Unions to determine whether Union funds were utilized to reimburse members for their contributions, particularly the contributions in the form of membership fees or fundraiser tickets. To the extent that the Teamsters Hispanic Caucus used for campaign purposes resources obtained from persons or entities not entitled to make campaign contributions under the *Rules*, the Election Officer will require the Teamsters Hispanic Caucus to disgorge such monies by refunding, with interest, the amount improperly expended to the fund accounts it holds for non-political related purposes. Such disgorgement or refunding is sufficient to satisfy the requirements of the *Rules*. In Re Gully, supra.

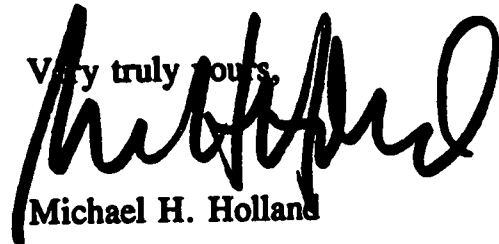
If any interested party is not satisfied with this determination, they may request a hearing before the Independent Administrator within twenty-four (24) hours of their receipt of this letter. The parties are reminded that, absent extraordinary circumstances, no party may rely upon evidence that was 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,

the date of this decision. *Rules*, Article XI, § 2(z).

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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", written in a cursive style.

Michael H. Holland

cc: Frederick B. Lacey, Independent Administrator