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January 10, 1991

VIA UPS OVERNIGHT

Juan Marquez, Jr
P O Box 2552
Modesto, CA 95351

Walter W. Henao
210 Covena Ave.
Modesto, CA 95354

Ron Ashlock
Secretary-Treasurer
IBT Local 748
1222 "I" St
Modesto, CA 95354

Re: Election Office Case No. P-218-LU748-CCV

4 P-228-LU748-CCV

Gentlemen

A pre-election protest was filed pursuant to the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("*Rules*"). The protest raises the issue as to whether the nominated alternate delegate candidate Juan Marquez is entitled to withdraw as a member of the Working Teamsters Slate and run as an independent candidate.

The *Rules* provide in Article VII, § 1 (b) that a slate is formed by mutual consent between and among all candidates running on the slate, which consent is evidenced by the signing of a Slate Declaration Form (mandatory form) and the filing of such Form with, in the case of delegate and alternate delegate elections, the Local Secretary-Treasurer. Both steps are required for the formation of a slate. Thus, a member may withdraw from a slate prior to the completion of the slate formation requirements. That is, a member may withdraw from the slate prior to signing the slate declaration form or, after signing the slate declaration form, and prior to its submission to the Local Secretary-Treasurer.

However, once a slate is formed, no member may retract his declaration to be a slate member, no member may withdraw from the slate. Article VII, § 2 (a). Thus, once all the requirements of slate formation have been completed, no member may withdraw from the slate and continue to seek the position which he was seeking as a member of the slate.

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In the instant case, the Election Officer investigation determined that Mr. Marquez was properly nominated as an alternate delegate candidate at the Local 748 nominations meeting. Thereafter, Mr. Marquez was approached by a member of the Working Teamsters Slate who sought Mr. Marquez's consent to become a member of the slate. Mr. Marquez, without coercion or intimidation, signed the slate declaration form. Thereafter, the slate declaration form was properly filed with the Secretary-Treasurer of Local Union 748.

It was only after the slate declaration form had been filed with the Secretary-Treasurer of Local Union 748 that Mr. Marquez sought to withdraw from such slate. While there was no evidence of either intimidation or coercion with respect to Mr. Marquez's decision to seek to withdraw from the slate, his request was made after the slate had been fully and officially formed. Therefore, under the *Rules*, Mr. Marquez is precluded from withdrawing from the slate. Under the *Rules*, Mr. Marquez may only seek election to the position of alternate delegate as a member of the Working Teamsters Slate.

Accordingly, the protest 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
Donald E. Twohey, Regional Coordinator