

OFFICE OF THE ELECTION OFFICER
% INTERNATIONAL BROTHERHOOD OF TEAMSTERS
25 Louisiana Avenue, NW
Washington, DC 20001

Michael H. Holland
Election Officer

(202) 624-8778
1-800-828-6496
Fax (202) 624-8792

May 22, 1991

VIA UPS OVERNIGHT

Donald A. Blair
2229 Magowan Drive
Santa Rosa, CA 95405

Brian Beaver
Secretary-Treasurer
IBT Local Union 624
1371 Neotoman Avenue
Santa Rosa, CA 95405

Re: Election Case No. P-744-LU624-CSF

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") by Donald A. Blair. In his protest Mr. Blair alleges that his dispatching hours were reduced by Brian Beaver in retaliation for Don Blair's son running against Brian Beaver in Local 624's recent delegate election. The investigation conducted by the Election Officer disclosed the following facts.

Don Blair is a member of Local Union 624 and has been employed as a dispatcher in Local 624's hiring hall for several months. Don Blair's son, Jim Blair, who is also a member of Local 624, was a successful candidate in Local 624's delegate election and defeated Mr. Beaver, the Secretary-Treasurer of Local 624, for the delegate position. As a dispatcher, Don Blair is paid \$21.00 an hour and had received health and welfare benefits, which cost the Union approximately \$400 per month.

On April 11, 1991, Local 624's Secretary-Treasurer, Brian Beaver notified Mr. Blair that due to economic conditions the Local had to reduce Mr. Blair's dispatch hours by one and a half hours per day. Prior to the notice Mr. Blair had worked as dispatcher from 6:00 a.m. to 10:30 a.m. Mr. Beaver changed Don Blair's hours to 6:00 a.m. to 9:00 a.m.

Don Twohey, the Election Office Regional Coordinator, interviewed Mr. Blair in reference to the above described protest. Mr. Blair stated that Mr. Beaver reduced his hours solely to punish him for the fact that his son, Jim Blair, had run against Mr. Beaver in the recent delegate election. Mr. Blair further stated that the effect of Mr.

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Beaver's reductions of his hours would result in him being ineligible for health and welfare coverage. Mr. Blair also claims that the demands of the dispatching job necessitate that he be available to dispatch drivers to various companies until 10:00 a.m. in the morning. Both Mr. Blair and Mr. Beaver agree that approximately 200 members work out of the Union hiring hall and that approximately fifteen employers use the hiring hall's services.

Mr. Twohey also interviewed Mr. Beaver in reference to this protest. Mr. Beaver claims that economic circumstances compelled him to reduce Mr. Blair's hours. Specifically, Mr. Beaver states that the number of dispatches received in the hiring hall has been continually declining and that the Union's financial situation requires it to reduce its costs. Beaver also claims that the great majority of the calls are received early in the morning, and that on many mornings no calls are received at the hiring hall after 9:00 a.m. Beaver further explains that in the event that any dispatch calls are received after 9:00 a.m., the Local's clerical staff can easily handle the employer requests. Mr. Twohey also spoke to two Local 624 Business Agents, Peter Estes and Jack Spratt. Both Mr. Estes and Mr. Spratt stated that based on their experience, almost all the freight companies placed their dispatch calls early in the morning, before 9:00 a.m.

Don Twohey reviewed the dispatch slips which record dispatches by the hiring hall in order to determine whether there was any basis for Mr. Beaver's claims that the number of dispatch calls received by the hiring hall were not numerous and were further steadily declining. Mr. Twohey's investigation revealed that in March, 1990 there were 162 dispatches and that in March, 1991 there were 136 dispatches. Mr. Twohey also checked the dispatch records for April 1990 and 1991 and determined that in April, 1990 209 dispatches were received while in April, 1991 only 107 dispatches were received.

As additional proof that his decision to reduce Mr. Blair's hours was motivated solely by economic concerns, Mr. Beaver claims that on the occasions when he has worked as a dispatcher, the majority of calls placed by employers were placed prior to 9:00 a.m. As an example, Mr. Beaver points to his experience on April 19, 1991. That day Mr. Beaver worked as the dispatcher after Mr. Blair stated that he was too sick to come to work. Mr. Beaver kept a log of the activities that day. The log reflected that one person signed out from the hiring hall at 6:00 a.m. At 6:02 a.m. another driver signed out and that 8:00 a.m. an employer called requesting a driver. During the entire period from 6:30 a.m. to 9:00 a.m. there were only four other dispatch related telephone calls received at the hiring hall. On that morning, no dispatch calls were received after 9:00 a.m.

Mr. Twohey also interviewed four of the approximately fifteen employers who regularly use the Local 624's hiring hall and the dispatch system. One of the individuals interviewed by Mr. Twohey, Paul Biondi of DeSalvo Trucking, concurred in Mr. Beaver's assessment that business is currently quite slow. Biondi further stated that due

to the fact that business is very slow, the Union could close the dispatch hall entirely and it would not hurt his business.

Mr. Twohey also interviewed Frank Paul, a representative from Consolidated Freightway, and Glen Greiner, an employer representative from Peter's Trucking. Both stated that they use the hiring hall on a daily basis. They further stated, however, that the reduction in hours would not adversely affect their businesses since, except in cases of emergency, most of their dispatch requests are made prior to 9:00 a.m.

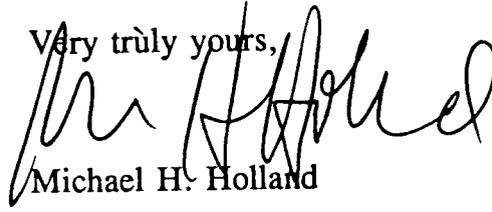
The investigation disclosed that there was an arguably legitimate economic reason for Mr. Beaver's reduction in Mr. Blair's hours. The records indicate that the number of dispatch calls received by the hiring hall is declining. The evidence also established that the vast majority of calls received during a daily shift were received prior to 9:00 a.m., indeed, the two Business Agents and all three company representatives interviewed by Mr. Twohey confirmed that fact. The statements of the three employer representatives corroborated Mr. Beaver's contentions that business was slow and that the reduction in dispatch hours would not necessarily operate to the detriment of the companies, the companies' ability to obtain drivers, or the members' work opportunities. The evidence further showed that, even after the dispatcher work hours are over, any employer may call the Local Union hall and members will be dispatched by the Local's clerical employees.

No facts were uncovered during the investigation demonstrating the Mr. Beaver's reduction of Mr. Blair's hours was motivated by a desire to punish Don Blair for Jim Blair's successful candidacy. In fact, the nominations meeting report showed that Don Blair nominated Jack Gallagher, who ran for delegate on Mr. Beaver's slate in opposition to Don Blair's son, Jim.

Since the evidence establishes a legitimate, non-discriminatory motive for the reduction of the dispatcher's hours and the lack of retaliatory animus by Mr. Beaver against Mr. Blair, I conclude that there are insufficient facts to support Mr. Blair allegations. 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.

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Very truly yours,

Michael H. Holland

MHH/mjv

cc: Frederick B. Lacey, Independent Administrator
Donald E. Twohey, Regional Coordinator