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INVESTIGATIONS OFFICER, :
: :
v. : SUPPLEMENTAL OPINION OF THE
: INDEPENDENT ADMINISTRATOR
HAROLD FRIEDMAN :
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INVESTIGATIONS OFFICER :
: :
v. :
ANTHONY HUGHES :
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During the hearings recently concluded in this matter, Mr. Friedman's counsel stated that several thousand letters had been sent by the public to United States District Judge White, presumably in connection with the sentencing process, following the jury determination of guilt. I accepted what was expressed and implied in his counsel's representations, that these letters stated the authors' request for leniency in sentencing by reason of the good character, community service, and value of Mr. Friedman to the labor movement and his unions. I had no difficulty in doing so, given my familiarity with the sentencing process and the custom pursued by convicted defendants of bringing to the attention of the sentencing judge, through letters from friends, family and associates, matters that the sentencing judge should consider in imposing sentence.

Having accepted the representations of counsel, I applied them to the penalty phase of the hearing. Clearly, this material constituted "mitigation evidence" and it played a part in my decision to suspend Mr. Friedman for only one year,

notwithstanding the gravity of the misconduct charged and proved and the fact that the powerful positions Mr. Friedman held required that he conduct himself with utmost probity.

Mr. Friedman's counsel arranged for delivery to me on January 18, 1990, of 1,483 letters, which, I gather, are among those referred to by him at the hearing. To place this submission in perspective, it is noted that, in my January 11, 1990, Opinion at p. 40, I stated:

As of this date I have received no evidence that goes to the issue raised by Section 3(d). However, if among the thousands of letters referred to, any meet the 3(d) requirement, I will accept them up to the close of the business day on January 19, 1990. This extension applies both to Mr. Friedman and Mr. Hughes. Meantime, this decision will be filed. If such evidence is forthcoming, I will reopen these proceedings. I caution counsel that I do not expect or wish to be inundated with additional testimonials which speak of Respondents' general reputation. [emphasis supplied].

I have now read all of the letters.¹ With just a few exceptions, all were from members (or their families) of the unions with which Mr. Friedman is connected. Over and over again Judge White was asked to permit Mr. Friedman to hold his

¹ To assure that all letters would be read and none inadvertently overlooked, I not only read the letters myself; I had them reviewed by three paralegals in this office who, in turn, reported to me. The directions I gave them were to note any letters that referred, however remotely, to knowledge, belief or suspicion of the author that Mr. Friedman had violated the law or had committed the conduct charged. It appears that all union members were solicited to write and the similar format of many suggests that their authors were given a "form" to follow.

positions "during his appeal" or "until his appeal was decided." In every case, the letters extolled Mr. Friedman as a man and as a labor leader. Some rejected the notion that Mr. Friedman could be guilty of any crime. In short, this is exactly what I had drawn from the representations of counsel. In this respect, the representations of counsel have been fulfilled, although I stress that this submission was unnecessary.

Letters of this kind, however, do not go to the issue of whether the "activities and actions" of the Respondents were "known generally" by the membership at the time they voted to reelect Mr. Friedman to office. See IBT Constitution, Article XIX, Section 3(d); November 2, 1989, Opinion of Judge David N. Edelstein at pp. 4-6; September 29, 1989, Opinion of Frederick B. Lacey, Independent Administrator, at pp. 3-5; January 11, 1990, Opinion of Frederick B. Lacey, Independent Administrator, at pp. 24-32.

In reviewing the 1,483 letters received, only 18 can be said to reflect a view that Mr. Friedman might have been guilty of some wrongdoing, notwithstanding his denial throughout his trial and, even as of this date, of the misconduct charged, and even as to these, a generous construction is required to infer from them such a view. I will set forth below the appropriate portion of each of these letters so that each may be analyzed in the light of the requirements of Section 3(d) of the IBT Constitution.²

² The following portions of the letters are quoted verbatim. No corrections have been made by the undersigned.

Name of writer: Thomas W. Pindroh
Date: May 23, 1989

"We all understand that he made a big mistake in his judgment but we really need him to lead us badly."

Name of writer: Edward Rangers
Date: undated

"Please give him a break. Their is many companys do a lot of crooked work and get away with it. So I believe Harold should be given a break."

Name of writer: Will Roundtree
Date: May 15/23, 1989

"We makes mistake in life."

Name of writer: Paul Fabis
Date: May 12, 1989

"Dostoyevsky once asked in his book Crime & Punishment 'Who is perfect?' Then he answered it himself 'No One'"

Name of writer: C. C. Wilson
Date: May 12, 1989

"Your Honor, you know there is people in our Gov. that has done more wrong then Mr. Friedman has."

Name of writer: Mrs. Willie Letner
Date: May 19, 1989

"I do not understand all the crimes he is being charged with, but if there is anything possible you can do to see that he keeps his job, you will be doing a great service for a lot of people."

Name of writer: Helen Orlando
Date: May 13, 1989

"No one is a saint not even a man of your caliber - only God."

Name of writer: Michael Myslioty
Date: May 13, 1989

"The fact that an F.B.I. agent was fired, who gave permission or no permission to Presser to do something illegal does not liken it to the Nuremburg trials where lack of knowledge was no excuse."

Name of writer: Gladys Heater
Date: May 17, 1989

"There is corruption everywhere. Look at the 'White House'"

Name of writer: Raymond Dougherty
Date: undated

"Every Body in this world is not perfect."

Name of writer: George Grigonis
Date: undated

"Whatever he's guilty of it can't possibly compare to the government scandals like Watergate or the Iran-Contra affair."

Name of writer: Doris Karpowicz
Date: May 13, 1989

"Whatever he's done can't be as bad as some of the things other people have done."

Name of writer: Robert W. Henderson
Date: May 13, 1989

"Maybe he made some mistakes as all of us have, but this might make him a stronger President than before."

Name of writer: Al. L.
Date: May 16, 1989

"Perhaps in the earlier days of union organizing there was some hanky panky deals. Only a power greater than ourselves could tell you that."

Name of writer: Anonymous
Date: undated

"There's only one man that's perfect Judge White and that man is Jesus Christ."

Name of writer: Ron Weiss
Date: undated

"If he made a mistake, it just shows that he's human, and knowing Harold Friedman, he'll learn and benefit from his mistakes. He's not God, and we know he's not perfect."

Name of writer: Lucille Bryant for Ben Bryant
Date: undated

"Justice and Mercy. I am addressing this letter to the Mercy Side. All of us - during our lifetime have done some foolish thing in one form or another. . . . So please, Sir, show Mercy. . . . Show mercy."

Name of writer: Carl Shivy
Date: undated

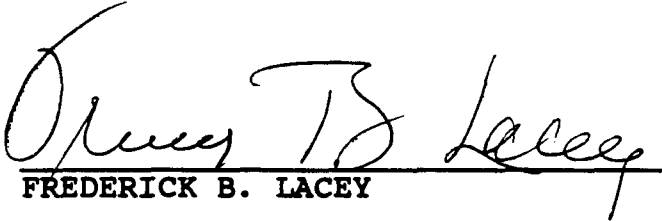
"We have a system, I know it don't work 100%; so in the case of Mr. Harold Friedman if he did or didn't act in good faith?"

With respect to these letters, three points are to be made. First, none deals either explicitly or by implication with the specifics of the misconduct with which Mr. Friedman was charged. Second, those bearing dates were written after the trial and jury determination of guilt and not at a time prior to the election of Mr. Friedman to union office. Third, even if it could be said that what was referred to by the writers were the charges in the indictment, and involved here, the letters hardly reflect that the conduct underlying such charges was "known generally."

Accordingly, my Opinion and decision remain unaffected by this submission.

CONCLUSION

I made it clear (see p. 1, supra) that I had sought letters written on Mr. Friedman's behalf that responded to the §3(d) defense requirement as articulated in the Opinions of Judge Edelstein and the undersigned, if such letters existed. It is evident, after reviewing Mr. Friedman's latest submission, that no such letters exist. Accordingly, there is no need to reopen the record; and this Supplemental Opinion will be transmitted to Judge Edelstein. My Opinion of January 11, 1990, supplemented by this Opinion, shall be deemed final and the penalty heretofore imposed will stand. The Investigations Officer has sustained his "just cause" burden by a preponderance of the credible evidence.


FREDERICK B. LACEY

Dated: February 6, 1990