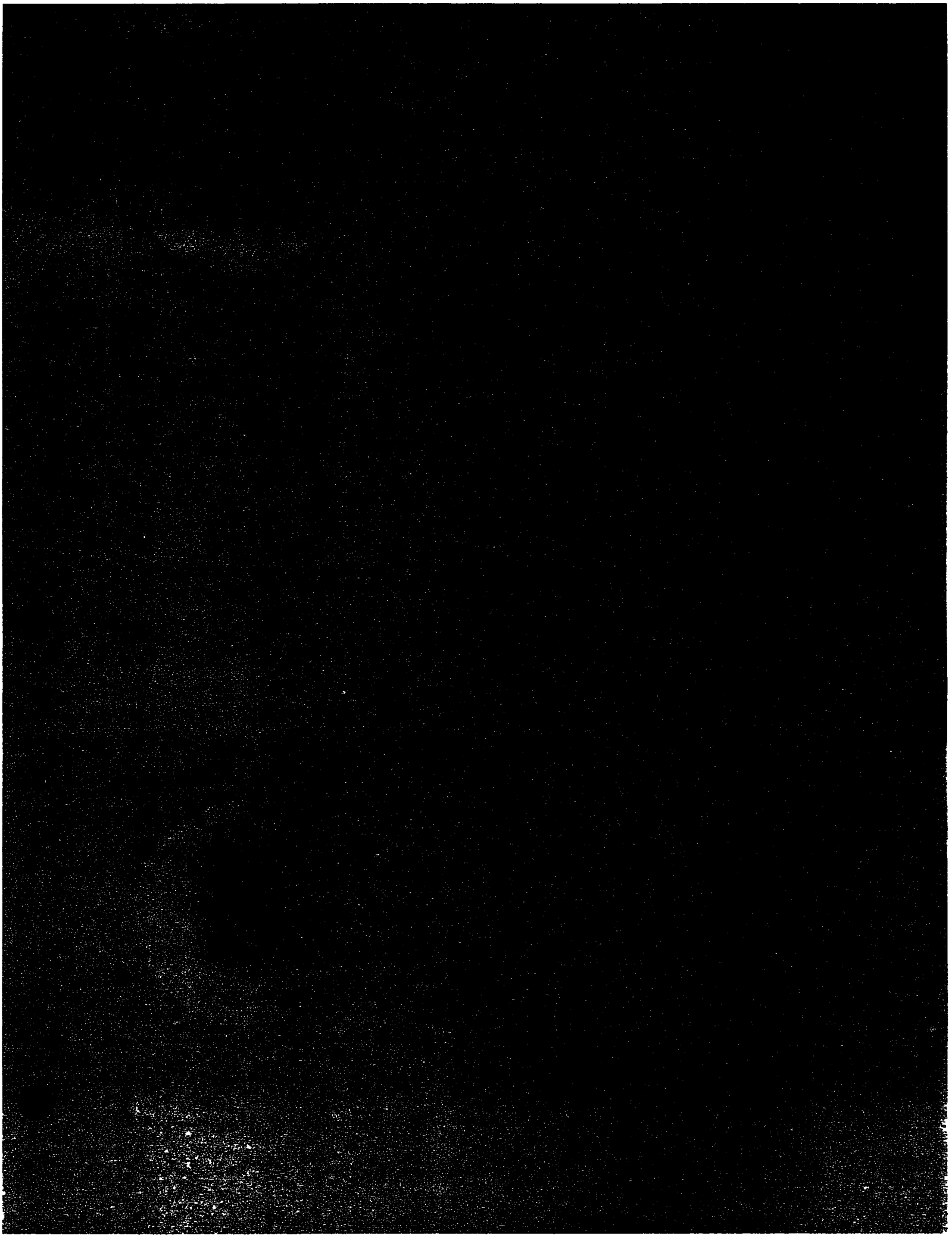

OFFICE OF THE ELECTION OFFICER
% INTERNATIONAL BROTHERHOOD OF TEAMSTERS
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Michael H Holland
Election Officer

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January 31, 1991

VIA UPS OVERNIGHT

Robert A. Hasegawa
3121 - 16th St.
Seattle, WA 98144

Allen McNaughton
Secretary-Treasurer
IBT Local Union 174
553 John St
Seattle, WA 98109

Re: Election Office Case No. P-349-LU174-PNW

Gentlemen:

A pre-election protest was timely filed pursuant to Article XI, of the ***Rules for the IBT International Union Delegate and Officer Election***, revised August 1, 1990 (***"Rules"***) In his protest, Robert A Hasegawa alleges that the ***Rules*** have been violated in the following respect (1) His slate's name was not listed in its entirety when the results of the nomination meeting were posted, (2) The results of the nominations meeting were posted on the eighth day following the nominations meeting; (3) The Local has refused to allow candidates for delegate the use of its bulk mail permit for campaign mailings, (4) The incumbent officers have changed the name of their slate from the "Truth Slate" to the "Executive Board Slate", and the change in name occurred later than twenty-four hours following the nominations meeting.

Subsequent to the filing of the protest, the Local agreed with the Regional Coordinator, Christine M Mrak, to repost the results of the nominations meeting with the complete name of the slate on the posting The Local also agreed to make its bulk mailing permit available to any candidate for delegate for the purpose of campaign mailings so long as those mailings contain a disclaimer of Local Union endorsement These agreements resolve these aspects of the protest.

The ***Rules*** provide that the results of the nominations meeting shall be posted within seven days following the nominations meeting Article II, Section 4 of the ***Rules*** The Local agrees that some of the postings did not occur until eight days following the nominations meeting The Election Officer concludes that in this case the Local made a good faith effort to post within seven days, and did not intentionally miss the posting deadline Therefore, there is no violation of the ***Rules***, and this aspect of the protest is **DENIED.**

Finally, the protestor raises two issues with regard to the Truth Slate changing its name. Mr. Hasegawa contends first that the *Rules* prohibit such a change if it occurs more than twenty-four hours following the nominations meeting, and he contends that the new name of the slate, "Executive Board Slate", violates the *Rules* because the name designates incumbency.

The *Rules*, in fact, require that slate declaration forms are to be filed no later than one (1) day after the Local Union's final delegate nominations meeting. Article VIII, Section 1(c) of the *Rules*. However, there is no such requirement with respect to the naming of the slate. The slate's name is not required information on the slate's declaration form.

The *Rules* do not prohibit the slate, once formed, from changing its name. In fact, the name of the slate can be amended or changed at any time before the ballots are designed and sent for printing Thus, the fact that the Truth Slate changed its name more than twenty-four hours following the nominations meeting does not violate the *Rules*

The *Rules* specify the following with respect to names that appear on the ballot:

> Candidates shall be identified on the ballot only by name and if affiliated by slate where a similarity in names may cause confusion, appropriate additional identification shall be added No asterisks or similar markings distinguishing incumbency shall be placed on the ballot.

Article II, Section 8(e) of the *Rules*.

Thus, the *Rules* prohibit a designation of incumbency, but only with respect to marking such incumbency by an asterisk or other markings. The *Rules* do not prohibit any slate name, such as "Executive Board Slate" or "Local 313 Slate." In this respect, the *Rules* are more restrictive than Title IV of the *Labor Management Relations Disclosure Act* ("*LMRDA*") Cases under the *LMRDA* have held that inclusion of any information with respect to a candidate's incumbency is acceptable because such information is deemed to have only a neutral impact on election outcome. Operating Engineers, Local 34, 81 - IM - 187 Thus, the candidates actual incumbent position in the Union could be noted on the ballot by asterisks or other markings under the *LMRDA* The *Rules*, however, do not allow designation of incumbency by markings or asterisks

The slate name "Executive Board Slate" is appropriate for the ballot since in and of itself, it does not designate incumbency, and otherwise conforms with the *Rules*

This aspect of 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/ads

cc Frederick B Lacey, Independent Administrator
Christine M Mrak, Regional Coordinator