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Election Officer

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February 22, 1991

VIA UPS OVERNIGHT

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Anaheim, CA 92806-4308

Jack E. Douglas
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Robert W. Hayes
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Harold J. Taylor Jr
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Terry Purrington
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Diamond Bear, CA 91765

Robert E. Stuver
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Apple Valley, CA 92307

Dennis K Thompson
16691 Dolores, #1
Huntington Beach, CA 92649

Re: Election Office Case No. P-437-LU63-CLA
Protest of Scott T. Askey: Eligibility of Joe Aztate (S.S.# 568-54-8423), Fred Beaudette (S.S.# 547-54-5286), Jack Douglas (S.S.# 314-24-2087), Fredrick Freitag (S.S.# 553-50-9488), Bob Hayes (S.S.# 319-34-4346), Wendel Halterman (S.S.# 548-58-3462), Mike Hanlon (S.S.# 272-40-4675), Mark Hood (S.S.# 559-92-6530), Mike Magurn (S.S.# 569-96-7827), Lucille Morua (S.S.# 566-60-5937), Terry Purrington (S.S.# 558-60-5937), Harold Smith (S.S.# 567-58-8051), Robert Stuver (S.S.# 333-34-0111), Harold Taylor (S.S.# 546-70-8848), Dennis Thompson (S.S.# 406-62-2525), Thomas Wilson (S.S.# 567-46-5347), and Bill De Groot (S.S.# 548-06-5691), to be a Candidate for Delegate, IBT Local 63. Eligibility of Ronald Day (S.S.# 555-42-5633), Robert Doss (S.S.# 556-68-2369), Tony Moreno (S.S.# 570-56-5234), and Ray Nickum (S.S.# 555-62-0292) to be a Candidate for Alternate, IBT Local 63. Eligibility of Robert E. Marciel (S.S.# 558-52-0292) and James Minisci (S.S. 560-56-81-58) to nominate and second.

Gentlemen:

The nominations meeting for IBT Local 63 was held on February 2, 1991. During the nominations meeting Robert E Marciel nominated and James A. Minisci seconded the nominations of Joe Arzate, Fred Beaudette, Jack Douglas, Fredrick Frietag,

Robert Hayes, Wendel Halterman, Micheal Hanlon, Mark Hood, Michael Magurn, Lucille Morua, Terry Purrington, Harold Smith, Robert Stuver, Harold Taylor, Dennis Thompson, Thomas Wilson, and Tony Moreno to Run as Delegates to the 1991 IBT International Convention from Local 63 Mr Marciel also nominated and Mr Minisci seconded the nominations of Ronald Day, Robert Doss, Raoul De Groot and Raymond Nickum to run as Alternates to the 1991 IBT International Convention from Local 63. On February 4, 1991, Mr Scott Askey challenged the eligibility of all the above candidates for delegate and alternate, as well as the eligibility of Messrs. Marciel and Minisci to nominate and second.

I. Eligibility To Nominate or Second

Article II, §3(h) of the *Rules for the IBT International Union Delegate and Officer Election* provides that to be eligible for nomination, a member must be nominated and seconded by a member in good standing, each with his/her dues paid through the month prior to the nominations meeting

The TITAN record reflects that both Mr Robert E. Marciel and Mr James A. Minisci, (who are on checkoff dues payment), had paid their dues through the month prior to the nomination meeting Accordingly, they are eligible to nominate and second a nomination for delegate or alternate to the IBT Convention.

The protest against them is DENIED.

II. The Eligibility To Be a Candidate for Delegate or Alternate Delegate

In order to be eligible to run for delegate or alternate delegate to the IBT International Convention, a member must be in continuous good standing with his Local Union, with his dues paid to the Local for a period of twenty-four (24) consecutive months prior to the month of nomination with no interruptions in active membership due to suspensions, expulsions, withdrawals, transfers or failure to pay fines or assessments. *Rules for the IBT International Union Delegate and Officer Election, Article VI, §1(a)(1).*

In addition, Article X, §5(c) of the IBT Constitution provides as follows:

Membership dues to Local Unions are due on or before the first day of the month and must be paid on or before the last business day of that month. Any member failing to pay his dues at such time shall not be in good standing for such month but may restore good standing for such month for the purpose of attending meetings, nominating, voting and participating in affairs of the Local Union by payment of his delinquent dues prior to said meeting. Payment

of such dues after their due date shall not restore good standing status for such month or months in computing the continuous good standing status required ..as a condition of eligibility for office.

A. Mr. Robert Doss (556-68-2369)

The TITAN record reflects that Mr. Doss paid timely dues for the twenty-four (24) months beginning February 1989 and ending January 1991. Accordingly, Mr. Doss is eligible to run as a delegate or alternate delegate to the 1991 IBT International Convention.

The protest against Mr Doss is DENIED.

B Mr Fredrick Freitag (553-50-9488)

The TITAN record reflects that Mr. Freitag paid timely dues for the twenty-four (24) months beginning February 1989 and ending January 1990. Accordingly, Mr Freitag is eligible to run as alternate to the IBT Convention

The protest against him is DENIED.

C. Mr Raymond Nickum (555-62-0292)

The TITAN record reflects that Mr. Freitag paid timely dues for the twenty-four (24) months beginning February 1989 and ending January 1991. Accordingly, Mr. Nickum is eligible to run as alternate to the IBT Convention

The protest against him is DENIED.

D Mr Joseph Arzate (568-54-8423)

Mr Arzate's TITAN record reflects that his dues for the following months, paid through check-off, were paid late. February 1989 (paid March 3, 1989), November 1989 (paid December 5, 1989), December 1989 (paid January 3, 1990), June 1990 (paid July 26, 1990), November 1990 (paid December 5, 1990) and December 1990 (paid January 9, 1991). The Election Officer, however, has verified with Mr. Arzate's employer, United Parcel Service, that Mr. Arzate worked and had earnings in February, November and December of 1989 as well as June, November and December 1990 from which his dues could have been deducted. Therefore, in accordance with IBT Constitution, Article X, §5(c), Mr. Joseph Arzate is eligible to be a candidate for

delegate or alternate delegate to the IBT International Convention.

The protest against him is DENIED.

E Mr. Fred A. Beaudette (547-54-5286)

Mr. Beaudette's TITAN record reflects that his dues for the following months, paid through checkoff, were paid late: January 1990 (paid February 12, 1990), February 1990 (paid March 8, 1990), and March 1990 (paid April 9, 1990). The Election Officer, however, has verified with Mr. Beaudette's employer, Hadley Auto, that Mr. Beaudette worked and had earnings in January, February and March of 1990, from which his dues could have been deducted. Therefore, in accordance with IBT Constitution, Article X, §5(c), Mr. Fred A. Beaudette is eligible to be a candidate for delegate or alternate delegate to the IBT International Convention.

The protest against him is DENIED

F Mr Jack E Douglas (314-24-2087)

Mr. Douglas' TITAN record reflects that his dues for the following months, paid through checkoff, were paid late: August 1989 (paid October 30, 1989), September and October 1989 (paid December 4, 1989), November 1989 (paid December 27, 1989), December 1989 (paid January 25, 1990), January 1990 (paid March 1, 1990), February 1990 (paid April 2, 1990), March 1990 (paid May 1, 1990), April 1990 (paid June 1, 1990), June 1990 (paid July 19, 1990), July 1990 (paid August 3, 1990). Mr Douglas' May 1990 dues went unpaid entirely. The Election Officer, however, has verified with Mr. Douglas employer, Wonder Bread, that Mr. Douglas worked and had earnings in all of the above mentioned months from which his dues could have been deducted. Local 63 has also confirmed that it never notified Mr. Douglas that his dues were in arrears. Therefore, in accordance with IBT Constitution, Article X, §5(c), Mr. Jack E. Douglas is eligible to be a candidate for delegate or alternate delegate to the IBT International Convention.

The protest against him is DENIED.

G. Mr Wendel T. Halterman (548-58-3462)

Mr. Halterman's TITAN record reflects that his dues for the following months paid through checkoff, were paid late: January 1989 (paid February 3, 1989), February 1989 (paid March 3, 1989), September 1989 (paid October 25, 1989), November 1989 (paid December 5, 1989), December 1989 (paid January 3, 1990), November 1990 (paid December 5, 1990) and December 1990 (paid January 9, 1991). The Election Officer, however, has verified with Mr. Halterman's employer, United Parcel Service, that Mr.

Halterman worked and had earnings in all the above mentioned months from which his dues could have been deducted. Therefore, in accordance with IBT Constitution, Article X, §5(c), Mr. Wendel Halterman is eligible to be a candidate for delegate or alternate delegate to the IBT International Convention.

The Protest against him is DENIED.

H. Mr. Michael M. Hanlon (272-40-4675)

Mr Hanlon's TITAN record reflects that he entered the twenty-four (24) month period in arrears on his dues. The arrearage began as a result of no dues being remitted on his behalf in August, 1986, the arrearage was increased to two months as a result of no dues being remitted for July, 1988. The Election Officer has verified that Mr. Hanlon had earnings in both August, 1986 and July, 1988 from which his dues could have been deducted. Further, the Local has confirmed that Mr. Hanlon was never notified of the arrearage. Therefore, pursuant to Article X § 5(a) of the IBT Constitution, Mr Hanlon's good standing is not adversely affected.

The Titan record also reflects that his dues for the following months, paid through checkoff, were paid late. January 1989 (paid February 3, 1989), February 1989 (paid March 3, 1989), March 1989 (paid April 3, 1989), April 1989 (paid June 23, 1989), May 1989 (paid July 6, 1989) and June 1989 (July 6, 1989). The Election Officer, however, has received confirmation from Local 63 that it is not local policy to notify members on checkoff dues payments when their dues become delinquent.

In addition, the Election Officer has verified with Mr. Hanlon's employer, Consolidated Freightways, that Mr Hanlon worked and had earnings in each of the above months from which his dues could have been deducted. Therefore, in accordance with IBT Constitution, Article X, §5(c), is eligible to be a candidate for delegate or alternate delegate to the IBT International Convention.

H Mr. Robert W Hayes (319-34-4346)

Mr Hayes' TITAN record reflects that his dues for the following months paid through checkoff, were paid late February 1990 (paid on March 22, 1990), March 1990 (paid on April 6, 1990), April 1990 (paid on May 16, 1990), June 1990 (paid on July 30, 1990) The Election Officer, however, has verified with Mr Hayes employer, Santee Dairies, that Mr. Hayes worked and had earnings in all of the above mentioned months, from which his dues could have been deducted. Therefore, in accordance with IBT Constitution, Article X, §5(c), Mr. Robert W. Hayes is eligible to be a candidate for delegate or alternate delegate to the IBT International Convention.

The Protest against him is DENIED.

I Mr. Mark S Hood (559-92-6530)

Mr Hood's TITAN record reflects that his dues for the following months paid through checkoff, were paid late April 1989 (paid on May 22, 1989), May 1989 (paid on June 8, 1989), June 1989 (paid on July 7, 1989) and January 1990 (paid on February 2, 1990). The Election Officer, however, has verified with Mr. Hood's employer, Yellow Freight, that Mr Hood worked and had earnings in all the above mentioned months from which his dues could have been deducted. Therefore, in accordance with IBT Constitution, Article X, §5(c), Mr. Mark S. Hood is eligible to be a candidate for delegate or alternate delegate to the IBT International Convention.

The protest against him is DENIED.

J Mr Tony Moreno (570-56-5234)

Mr Moreno's TITAN record reflects that his dues for the following months paid through checkoff, were paid late May 1989 (paid on June 5, 1989), June 1989 (paid on July 6, 1989), November 1989 (paid on December 4, 1989), June 1990 (paid on July 19, 1990), and July 1990 (paid on August 3, 1990). The Election Officer, however, has verified with Mr. Moreno's employer, Di Carto Baking Co., that Mr Moreno worked and had earnings in all the above mentioned months, from which his dues could have been deducted. Therefore, in accordance with IBT Constitution, Article X, §5(c), Mr. Tony Moreno is eligible to be a candidate for delegate or alternate delegate to the IBT International Convention.

The protest against him is DENIED.

K. Ms Lucille Morua (566-84-8177)

Ms Morua's TITAN record reflects that her dues for the past twenty-four months, paid through checkoff, have been paid late. The Election Officer, however, has verified with Ms. Morua's employer, North American Produce, that Ms. Mourua worked and had earnings in each of the last twenty-four months from which her dues could have been timely deducted.

In addition, the Election Officer has received confirmation from Local 63 that North American Produce, Ms Morua's employer, is consistently late in submitting checkoff dues to the Local. Further, the Local does not notify members when their dues are delinquent.

Therefore, in accordance with IBT Constitution, Article X, §5(c), Ms. Lucille Morua is eligible to be a candidate for delegate or alternate delegate to the IBT International Convention.

The protest against her is DENIED.

L Mr. Harold G Smith (567-58-8051)

Ms. Smith's TITAN record reflects that his dues for the past twenty-four months, paid through checkoff, have been paid late. The Election Officer, however, has verified with Mr. Smith's employer, Golden State Foods, that Mr. Smith worked and had earnings in each of the last twenty-four months from which his dues could have been timely deducted. Therefore, in accordance with IBT Constitution, Article X, §5(c), Mr. Harold G. Smith is eligible to be a candidate for delegate or alternate delegate to the IBT International Convention.

The protest against him is DENIED.

M. Mr Robert E Stuver (333-34-0111)

Mr Stuver's TITAN record reflects that his dues for the following months, paid through checkoff, were paid late May 1989 (paid on June 6, 1989) and December 1990 (paid on January 29, 1991) The Election Officer, however, has verified with Mr. Stuver's employer, Roadway Express, that Mr Stuver worked and had earnings in both of these months from which his dues could have been deducted. Therefore, in accordance with IBT Constitution, Article X, §5(c), Mr. Robert E. Stuver is eligible to be a candidate for delegate or alternate delegate to the IBT International Convention.

The protest against him is DENIED.

N. Mr. Harold J Taylor, Jr.(546-70-8848)

Mr Taylor's TITAN record reflects that his dues for the following months, paid through checkoff, were paid late February of 1989 (paid on March 3, 1989), March 1989 (paid on April 3, 1989), April 22, 1989 (paid on May 22, 1989) and June 1989, (paid on July 6, 1989) The Election Officer, however, has verified with Mr. Taylor's employer, Consolidated Freightway, that Mr Taylor worked and had earnings in the above mentioned months from which his dues could have been deducted. Therefore, in accordance with IBT Constitution, Article X, §5(c), Mr. Harold J. Taylor is eligible to be a candidate for delegate or alternate delegate to the IBT International Convention.

The protest against him is DENIED.

O. Mr Thomas Wilson (567-46-5347)

Mr Wilson's TITAN record reflects that his dues for the following months, paid through checkoff, were paid late: April 1989 (paid on May 22, 1989), May 1989 (paid on June 8, 1989) and June 1989 (paid on July 7, 1989) The Election Officer, however, has verified with Mr. Wilson's employer, Yellow Freight, that Mr. Wilson worked and had earnings in all the above mentioned months from which his dues could have been deducted. Therefore, in accordance with IBT Constitution, Article X, §5(c), Mr. Thomas Wilson is eligible to be a candidate for delegate or alternate delegate to the IBT International Convention.

The protest against him is DENIED.

P Mr. Ronald H Day (555-42-5633)

Mr Day's TITAN record reflects that his dues for the following months paid through checkoff, were paid late: November 1989 (paid on December 5, 1989), December (paid on January 3, 1990), November 1990 (paid on December 5, 1990) and December 1990 (paid on January 9, 1990) The Election Officer, however, has verified with Mr Day's employer, United Parcel Service, that Mr Day worked and had earnings in these months from which his dues could have been deducted.

However, Mr Day's TITAN also reveals that he transferred from Local 63 to Local 396 and back again during the period of eligibility. The Election Officer spoke with both Mr. Day and his employer. They both stated that his transfers occurred during changes of operations by UPS. UPS redomiciled his route first from San Bernadino to San Gabriel and then back to San Bernadino after a renovation at the San Bernadino facility Mr. Day transferred in order to follow the route which he has held for more than five years. In both cases, if he had not followed his route, the work remaining at the terminal which he left would have been "pick-up" routes covering absentees. Mr. Day's employer stated that he believed that if Mr Day had remained and taken this pick-up work his income would have been adversely affected because the work would not have been as steady as his regular route Accordingly, his transfer is deemed to be involuntary because he would have suffered substantial economic harm if he did not transfer. See e g , In Re: Douglas and IBT Local 891 (90 Elec. App - 55 (SA)) Under the Rules, Article VI § 2(a), an involuntary transfer does not affect a members continuous good standing

Thus neither the late dues payments nor the transfers affect Mr Day's eligibility to run as a delegate in the election and the protest with respect to Mr Day is DENIED.

Q Mr. Michael R Magurn (569-96-7872)

Mr. Magurn's dues are paid in cash payments. His TITAN record reflects that he made late cash payments in the months of March 1989 (posted on April 5, 1989),

July 1989 (posted on August 2, 1989), April 1990 (posted on May 4, 1990) and December 1990 (posted on January 2, 1991). While these payments appear late, the Election Officer has confirmed with Local 63 that cash due payments are often posted as late as 2-7 days after receipt. All the dues payments for Mr. Magurn were recorded in the Titan no later than the fifth day of the succeeding month. Therefore, Mr. Magurn is eligible to be a candidate for delegate or alternate to the IBT Convention.

The protest against him is DENIED.

R. Mr. Terry L. Purrington (558-60-5937)

Mr. Purrington dues are paid in cash payments. His TITAN record reflects that his dues for the following months paid in cash were posted late: January 1989 (posted on February 1, 1989), July 1989 (posted on August 2, 1989), October 1989 (posted on November 3, 1989) and July 1990 (posted on August 1, 1990). The Election Officer, however, has been told by Mr. Purrington's Local that cash dues are often posted 2-7 days after receipt. All of Mr. Purrington's dues were posted no later than the third day of the succeeding month. Therefore, Mr. Purrington is eligible to be a candidate for delegate or alternate delegate to the IBT International Convention.

The protest against him is DENIED.

S. Mr. Raoul W. De Groot (548-06-5691)

Mr. De Groot's dues are paid in cash payments. His TITAN record reflects that his dues for the following months, paid in cash, were paid late: April 1989 (posted on May 30, 1989) and May 1989 (posted on June 2, 1989). The late payment of May 1989 falls into the 2-7 days period which the local states is the period after receipt in which it posts cash dues paid at the end of the month.

The cash payment for May 1989, however, was not posted until the thirtieth day of the succeeding month. Mr. De Groot has submitted a copy of his cancelled check for his April, 1989 dues payment. The check is dated June 23. Accordingly, Mr. De Groot is found to be ineligible to run for delegate or alternate to the IBT international Convention.

The protest against him is GRANTED.

T. Mr. Dennis K. Thompson (406-62-2525)

Mr. Thompson's TITAN record reflects that his dues for the following months, paid by checkoff, were paid late: May 1989 (posted on June 7, 1989), June 1989 (posted on July 25, 1989) and July 1989 (posted on August 22, 1989). The Election

Officer has, however, received verification from Mr Thompson's employer that Mr Thompson worked and had earnings in each of the above months from which his dues for those months could have been deducted Therefore, Mr. Thompson's good standing status is not affected by the above late payments.

Mr. Thompson's TITAN further reflects late cash payments for the following months August 1989 (posted on September 21, 1989), September 1989 (posted on October 27, 1989), October 1989 (posted on November 21, 1989), November 1989 (posted on December 20, 1989), April 1990 (posted May 2, 1990) and August 1990 (posted September 5, 1990). Mr. Thompson switched from checkoff dues payments to cash dues payments in September 1989 At that time, his checkoff dues were a month behind due to the failure of his employer to timely remit his August, 1989 dues. The Election Officer has verified that Mr. Thompson worked and had earnings in August, 1989 from which his dues could have been deducted According to Mr. Thompson, he was unaware that his dues were delinquent, and paid dues in September, October, November and December 1989, believing that those dues were posted for the months in which he wrote the checks Further, when Mr Thompson realized in November 1989 that his dues were a month behind, he called the Local to find out why. According to Mr. Thompson, in January 1990 the Local, after discussing the matter with his employer, finally explained to him that his employer had been a month behind in dues payments when he began making cash payments Mr Thompson then paid dues for two months, bringing them current The Election Officer has received confirmation of this from the Local. In addition, it is not the Local's policy to send members notification when they are behind in dues payments. Because Mr. Thompson was unaware that his dues were delinquent until January 1990, when he made up his arrearage, the above late payments do not affect his good standing status.

The April 1990 as well as the August 1990 payments fall within the 2-7 day period which the Local states is the period after receipt before which the Local posts dues received at the end of the month. Mr. Thompson's good standing status is not affected by the above late payments Therefore, Mr. Thompson is eligible to run for delegate or alternate delegate to the 1991 IBT International Convention.

The protest against him is DENIED.

Mr Askey's protest also challenged the timeliness and validity of the slate declaration form The Election Officer's Adjunct Coordinator who was present at both nomination meetings saw all the appropriate candidates sign the appropriate declaration form, with the exception of Messrs Nickum and Moreno. The Adjunct Coordinator later confirmed with these two individuals that they wanted to be included on the slate, and had signed the appropriate slate declaration form Any candidate may accept

nomination in writing Rules, Article II § 3 (h) ¹

Any interested party not satisfied with this determination 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/eh

cc: Frederick B Lacey, Independent Administrator
Geraldine Leshin, Regional Coordinator

¹ To the extent that Mr. Askey objects to the fact that certain candidates nominated in Rialto live and/or work closer to Los Angeles, the protest is denied. Under the Rules, at the nominations meeting, any member can attend any, and or all, nominations meetings for his/her Local and may be nominated at any such meetings.

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February 26, 1991

VIA UPS OVERNIGHT

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**RE: Election Office Case No. P-437-LU63-CLA
Protest of Scott T. Askey: Eligibility of Raoul DeGroot (Soc. Sec. No.
548-06-5691) to be a Candidate for Delegate, IBT Local 63.**

Gentlemen:

By the letter dated February 22, 1991, the Election Officer upheld Mr. Scott Askey's protest as to the eligibility of Mr. Raoul W DeGroot to run for delegate for the 1991 IBT International Convention for Local Union 63, on the basis that Mr. DeGroot, who is a cash dues payer, showed a late cash dues payment in April 1989.

Subsequent to the issuance of the decision in this, it was brought to the attention of the Washington Office of the Election Officer by Mr. DeGroot, that he had in fact made this dues payment in a check dated March 18, 1989 which cleared his bank on March 23, 1989. Upon examination of the check submitted, Local Union 63 acknowledges that there was a posting error in 1989 and in fact, Mr DeGroot's dues for April 1989 were timely paid. Therefore, Mr DeGroot's dues for the twenty-four month period prior to the nominations meeting were timely paid.

In view of the foregoing, the Election Officer withdraws his decision of February 22, 1991, in so far as it relates to Mr DeGroot, vacates that portion of the decision and finds that Mr DeGroot is eligible to run for delegate to the 1991 IBT International Convention. Accordingly the protest as to Mr DeGroot's eligibility 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,

Scott T. Askey
Page 2

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/cdk

cc: Frederick B. Lacey, Independent Administrator
Geraldine Leshin, Regional Coordinator