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Michael H Holland
Election Officer

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March 11, 1991

VIA UPS OVERNIGHT

Robert Gunnerson
5557 Cold Water Drive
Castro Valley, California 94552

Albert Costa
Secretary-Treasurer
IBT Local Union 853
8055 Collins Drive
Oakland, California 95621

Re: Election Office Case No P-633-LU853-CSF

Gentlemen

A pre-election protest was filed pursuant to Article XI, Section 1 of the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("*Rules*") by Mr Robert Gunnerson, a member of Local 853 Mr Gunnerson complains that the Local 853 Election Plan was violated The Local Union Election Plan for Local 853 provided for a combined election, some members were to vote in-person, others by mail ballot The protest complains that some members who reside in Alameda or Contra Costa Counties received mail ballots while the Election Plan stated that members who reside in those counties would vote in-person

The purpose of preparing a Local Union Election Plan and posting a Local Union Election Plan Summary is, with respect to the method of voting, to give members notice of how they will vote in order to insure that each member has an opportunity to cast his/her vote The Election Officer is aware that mail ballots were sent to some members who, according to the Local Union Election Plan were to vote in-person Any member who received a mail ballot and who is among the members who were to vote in person will be allowed to vote by either method No member will be prevented from voting in person because he/she received a mail ballot *Rules*, Article XII, Section 5(e) The ballots of all members who receive and return a mail ballot, and do not vote in person, will be counted even if the member was to vote in person by the terms of the Local Union Election Plan

No mail ballots will be counted until the in-person voting is completed The mail ballots will be checked against those members who voted in-person No mail ballot will be counted if the member voted in person *Rules* Article XII, Section 5(e)


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The underlying purpose of the *Rules*, with respect to voting, is to extend, not limit, the ability of members to participate in the election process. Counting the mail ballots of all members who vote by mail, whether or not scheduled to do so under the terms of the Local Union Election Plan is thus in accord with that purpose. Permitting in-person voting of members who receive mail ballots is also in accord with that purpose and indeed contemplated by the *Rules*. See *Rules*, Article XII, Section 5(e). Checking returned mail ballots against the list of members who voted in-person and voiding the mail ballot where an in-person vote has been cast will prevent any member from voting more than once. The propose underlying the *Rules* have been met.

For the foregoing reasons, 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
Donald E. Twohey, Regional Coordinator