



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

September 11, 1991

**VIA UPS OVERNIGHT**

Gerald Moerler  
13104 Glen Ct. #40  
Chino Hills, CA 91709

Everett J. Roberts  
Trustee  
IBT Local Union 63  
1616 W. Ninth St.  
Room 205  
Los Angeles, CA 90015

**Re: Election Office Case No. P-881-LU63-CLA**

Gentlemen:

A protest was filed pursuant to the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("*Rules*") by Gerald Moerler, a member of Local Union 63 and a certified delegate to the 1991 IBT International Union Convention from Local 63. In his protest Mr. Moerler contends that he and certain other certified delegates and alternate delegates to the 1991 IBT International Union Convention from Local Union 63 were not provided, or reimbursed, for health and welfare and pension benefits for the period of the Convention while the Local did provide such health and welfare and pension benefits for other delegates, alternate delegates or guests it sent to the Convention. The protest was investigated by Regional Coordinator Geraldine L. Leshin and the Washington Office of the Election Officer.

The Election Officer investigation revealed that three Local 63 members or employees attending the 1991 IBT International Union Convention at the expense of the Local Union were granted health and welfare and pension coverage by the Local for the period of time of their attendance at the Convention. All such members or employees were full-time employees of Local 63. Under the terms of the health and welfare plan covering Local 63 employees, health and welfare benefit payments are made on a monthly basis. Accordingly, whenever an employee works at all during a month, Local 63 provides coverage for health and welfare benefits for the totality of the month. Thus the three full-time employees who attended the 1991 IBT International Union Convention at the expense of Local 63 were provided with health and welfare coverage for the totality of the month of June, 1991. These three employees were also provided with

pension credits for the full month of June, 1991.

The collective bargaining agreements under which the certified delegates and alternate delegates from Local Union 63 are employed contain a variety of provisions with respect to health and welfare coverage. Under most, if not all, such agreements the employer is required to pay to the multi-employer health and welfare fund a sum sufficient to cover its employees for a full calendar month even if employees are absent during such month. For instance, under the provisions of the National Master Freight Agreement as applicable to IBT members and employers in the Western Conference, all IBT members employed under the terms of such contract obtain health and welfare coverage for a full month if they work only forty (40) hours in a month. Other collective bargaining agreements contain similar provisions, albeit differing with respect to the number of hours which the member needs to work to attain coverage for a full month.

With respect to pension payments and credits, again the collective bargaining agreements covering the members of Local 63 who were certified delegates and alternate delegates to the 1991 IBT International Union Convention contain differing provisions concerning the employer's obligations to make contribution. The employers contribute on behalf of the Local 63 members employed by them on an hourly basis. No employer is required to contribute for more than 2080 hours per year. On a monthly basis, however, employers are required to contribute for hours worked in excess of the number of hours that would constitute one-twelfth of 2080 hours. For instance, under the terms of the National Master Freight Agreement applicable to the Western Conference, a Local 63 member who worked up to 180 hours a month has contributions made for each hour worked. Under the terms of the grocery agreement, the employer's obligation to contribute ceases at 173 hours a month. When the total number of hours for which the employer has contributed on behalf of any of its employees reaches 2080 hours for the year, the employer has no additional obligations to contribute with respect to that employee regardless of the fact that the employee continues to work and receive pay. Any member who achieves contributions for 2080 hours in any year obtains a full year of pension credit. Accordingly, a Local 63 member may receive a full 2080 hours of credit in any particular year despite being off work on an unpaid status during some portions of the year.

The Advisory Regarding Convention Expenses, issued April 19, 1991 ("Advisory"), specifically provides with respect to expenses, wage reimbursements or otherwise, that the Local Union is obligated to treat all its delegates or alternates equally. Further the Advisory prohibits a Union from treating either a delegate or alternate delegate less generously than a member or guest who is not a delegate or alternate delegate to the Convention. Since Local 63 provided health and welfare and pension benefits for at least some of its delegates, alternate delegates or guests, it is obligated to ensure that all delegates or alternate delegates were covered, other than at the expense of the delegate

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or alternate delegate, by health and welfare and pension benefits.

Neither the *Rules* nor the Advisory require, however, that double payments be made on behalf of any delegate or alternate delegate. To the extent that a delegate or alternate delegate receives health and welfare benefit coverage for the week of the Convention by reason of his/her employer's benefit coverage obligations under the terms of the collective bargaining agreement between that employer and the IBT, no additional payment need be made by Local 63. However, if the delegate or alternate delegate was required to personally pay for health or welfare coverage, reimbursement by Local 63 is required.

To the extent that a delegate or alternate delegate receives 2080 hours of pension credit for the year by reason of his/her employer's pension contribution obligations under the collective bargaining agreement between that employer and the IBT, Local 63 need not make any pension contributions on behalf of the delegate or alternate delegate. However if the yearly pension credit for any delegate or alternate delegate is less than 2080 hours then Local Union 63 must make pension contributions on behalf of such delegates or alternate delegates equal to the difference, up to forty (40) hours, between the number of hours of credit the delegate or alternate delegate has achieved and 2080 hours.

The protest is GRANTED to the extent noted above. Within thirty (30) days of the date of this decision, Local 63 shall submit to the Election Officer an affidavit demonstrating that each of its delegates and alternate delegates to the 1991 IBT International Union Convention either received health and welfare coverage for the period of the Convention by terms of the collective bargaining agreement between that delegate or alternate delegate's employer and the IBT or that Local 63 has made, or reimbursed, payments to provide the appropriate coverage. With respect to pension payments and credits, Local Union 63 within thirty (30) days shall provide an affidavit to the Election Officer indicating the date on which the plan year encompassing the month of June, 1991 ends; within fifteen (15) days of that date, Local 63 shall file a second affidavit with the Election Officer documenting the number of hours of pension credit for each delegate or alternate delegate for the plan year and the number of hours, if any, for which Local 63 made payment.

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,

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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

cc: Frederick B. Lacey, Independent Administrator  
Geraldine L. Leshin, Regional Coordinator  
P.O. Box 10956  
Burbank, CA 91510  
Tel: 818-769-3041  
Fax: 818-769-2890

Susan Jennik, Esq.  
Association for Union Democracy  
500 State St.  
Brooklyn, NY 11217

MHH/cb