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April 3, 1991

VIA UPS OVERNIGHT

Neil J Dougherty
33 Bridle Ct East
Glen Moore, PA 19343

Elwood J Shulling
President
IBT Local Union 384
2910 Hannah Avenue
Norrstown, PA 19401

Tom W Nagle, Jr
1156 Center Ave.
Pottstown, PA 19464

Gerard F. Moran
Secretary-Treasurer
IBT Local Union 384
2910 Hannah Avenue
Norrstown, PA 19401

Re: Election Office Case No. Post13-LU384-PHL

Gentlemen:

A post-election protest was filed pursuant to Article XI of the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("Rules") by Neil J Dougherty and Tom W Nagle, candidates for delegate and alternate delegate, respectively, from Local 384. Complainants contend that during the election count which occurred on January 30, 1991, Local 384 members in good standing, and thus eligible to vote, were declared ineligible and their ballots not counted. Complainants request that these challenged ballots be counted since the counting of these ballots may affect the outcome of the election.

The ballot count for Local Union 384 was held on January 30, 1991. There were 982 ballots cast of which 149 were challenged and the challenges sustained. Thus, 833 ballots were counted and the tally was as follows:

For Delegate

| | |
|-------------------|-----|
| Bill Snead | 590 |
| Elwood J. Shillig | 566 |
| Gerry Moran | 553 |
| Paul Bilelea | 524 |

| | |
|----------------|-----|
| Neil Dougherty | 503 |
| Steve Dias | 476 |
| John Szkarek | 471 |

For Alternate Delegate

| | |
|---------------|-----|
| Bill Nolan | 534 |
| Slim Wagner | 529 |
| Howard Fisher | 515 |

| | |
|------------------|-----|
| Tom Nagle | 492 |
| Bob Gainer | 479 |
| Ted Budzickowski | 452 |

Local Union 384 is entitled to elect 4 delegates and 3 alternate delegates. The difference between the fourth and fifth ranked delegate candidate is 21 votes. The difference between the third and fourth ranked alternate delegate candidate is 23 votes. Mr Neil Dougherty and Mr Tom Nagle, Jr filed a timely protest to the election based on the validity of the challenges to the ballots, which were sustained based upon failure of the member to have paid dues through November, 1990¹ or failure to have paid the initiation fee. Since the number of sustained ballot challenges could affect the outcome of the election, the Election Officer has conducted an investigation of this protest

The Election Officer has reviewed the TITAN records of each of the members who cast a challenged ballot ² The Election Officer also contacted the employers of each of these members who had been found to be ineligible to vote because of failure to pay

¹Prior to the election all parties agreed that the month through which dues had to be paid by a member in order for that member to be eligible to vote would be November, 1990 due to the practice of late payment of dues by employers who checked off dues for these members

²As stated in the protest, ballots were also challenged on the basis of the member's failure to appear on the TITAN election day control roster, a roster showing all members in good standing. A member may not appear on the roster for a variety of reasons including failure to pay initiation fees, dues delinquency, withdrawal, etc. Since the complainants complain of sustained challenges based upon dues delinquency and failure to pay initiation fees the Election Officer has reviewed the individual TITAN record for each member whose ballot was not counted.

initiation fees or apparent dues delinquencies to determine if the failure was caused by employer error. Based upon the Election Officer's investigation, the Election Officer has determined that 69 of the members whose ballots were not counted are eligible to vote for the reasons set forth below:

A. Ballots Challenged on the Basis of Unpaid Initiation Fees.

Voter eligibility for mail ballot elections is determined as of the date when the mail ballots are counted. To be eligible to vote, a member must be a member in good standing of the Local Union. Payment of the full initiation fee is a prerequisite to membership in good standing in the Local Union. Thus, to be eligible to vote in the Local 384 delegate election on January 30, 1991, a member must have paid his or her initiation fee prior to that date.

Sixty ballots were challenged on the basis of unpaid initiation fees. The Election Officer determined that the majority of these members worked for UPS and were on dues checkoff. UPS checks off initiation fees from earnings on an installment basis per agreement between the Union and UPS. For the members set forth below, UPS verified that the failure to deduct and remit the full amount of the initiation fee due was an employer error since these members had earnings and had worked a sufficient period to have had the total initiation fee deducted and remitted to the Union. The Election Officer has determined that the members listed below were eligible to vote, their good standing not being adversely affected due to the failure of UPS to properly deduct and remit their initiation fees.³ Article X, § 5 (c) of the IBT Constitution.

| | |
|----------------------|-------------|
| Richard Adinolfi | 053-66-2893 |
| Ronald Z Beavers | 177-60-7288 |
| Michael N Blessig | 206-66-9842 |
| Patrick Brennan | 177-46-6678 |
| Peter E Bullock | 169-60-3956 |
| Patrick Corhran | 185-36-8524 |
| Christin Cummings | 177-52-3381 |
| Calvin Feliciani | 178-52-3017 |
| Mark T. Grade | 191-62-7762 |
| David S Grunfest | 201-44-4326 |
| Scott T Hessenhauser | 214-50-8176 |
| Patrick Holleran | 160-48-4382 |
| James A Jones | 207-48-8505 |
| John Killian | 154-54-2383 |
| Jeanne Maccaro | 203-50-4542 |
| Eric Mienzenger | 165-54-7195 |
| Brian G Morris | 168-62-4763 |
| Thomas Nowak | 222-60-9990 |

³The Election Officer also reviewed the TITANS for these members to insure that each of them was also current in dues having paid their dues through November, 1990.

| | |
|------------------|-------------|
| Rodney J Pruitt | 210-52-1253 |
| Joel Ramos | 151-64-7154 |
| Shawn F. Scarano | 179-46-8480 |
| Kathleen A Smith | 141-36-3242 |
| Robert Spruhde | 196-58-8670 |
| Frank J. Tomas | 188-66-7665 |
| Robert M Turner | 182-58-4803 |
| Jeff B. Tyson | 199-38-4168 |

UPS employees, Kevin D McManus and Stephen B Mochulski were also not listed on the TITAN records as having completed payment of their initiation fees and thus were shown as not being members in good standing of the Local as of the date the roster was run. Updated TITAN records for these two members, not available to the Regional Coordinator on the date of the election, were reviewed by the Election Officer and reflected that the final installment of their initiation fee was remitted on January 29, 1991, the day prior to the election. Thus, Kevin M McManus, 195-50-0157, and Stephen B. Mochulski, 167-58-2241, are determined to be eligible to vote.

The TITAN record for William C Shoemaker, a UPS employee, indicates that he is not a member in good standing of the Local, not having paid his initiation fee. However, Mr Shoemaker is incorrectly shown as owing initiation fees. He transferred to Local 384 from another IBT Local. Therefore, pursuant to Article XVIII of the IBT Constitution, he is not required to pay a new initiation fee to Local 384. Thus, William Shoemaker, 136-58-8110, is eligible to vote.

Kevin D Morris, a UPS employee, was also shown as not having paid his initiation fees. A further review of the TITAN reflects, however, that Mr. Morris has paid his initiation fee which was improperly posted, although the posting was later corrected, the necessary status code changes were not made. Thus, Kevin D Morris, 199-48-5519, is eligible to vote.

The following members employed by other employers within the jurisdiction of Local 384 did not appear on the election roster due to an error in their TITAN record code. The record reflected that they had not paid their initiation fees and thus were not members in good standing. The Election Officer investigation has determined that they all are members who transferred to Local Union 384 from other IBT Locals and thus did not owe initiation fees to the Local under Article XVIII, § 2 (b)(3) of the IBT Constitution. Therefore, the following members are eligible to vote:

| | |
|--------------------|-------------|
| Mark L Balch | 190-60-4704 |
| Leo W Clayboss, Sr | 169-26-9820 |
| Kathleen Monaghan | 206-56-0692 |
| Daniel K Metzger | 280-52-2120 |

In addition, Michael A Petack and Elizabeth Scanlon also did not appear on the election day roster. Mr Petack's transfer to Local Union 384 from Local Union 107

was effective November 1, 1990. He had earnings in that month but his checkoff dues for November were posted January 17, 1991. Since November dues were the first dues he owed to Local 384, no TITAN record was established for him in Local 384 until January 17, 1991. Thus, Michael A. Petrack 183-50-5009 is eligible to vote.

Ms Scanlon became an employee of Fleming Foods on November 29, 1990. She completed payment of her initiation fee on January 28, 1991, prior to the ballot count. Her checkoff dues were paid through November, 1990 at the time of the election; thus Elizabeth Scanlon, 185-36-7954, is a member in good standing and eligible to vote.

The remaining challenges sustained by the Regional Coordinator on the basis of non-payment of initiation fees were confirmed as proper by the Election Officer investigation.

B. Ballots Challenged on the Basis of Delinquent Dues.

In addition to membership in the Local, a member must be a member in good standing having all dues, fines and assessments paid to date, to be eligible to vote. The Election Officer has reviewed each individual member's TITAN records to determine whether, and when necessary obtained earnings or dues deduction information, the members challenged were in fact delinquent in payments to the Local. Said investigation has revealed that the members listed below have been determined to be members in good standing and therefore eligible to vote. All remaining sustained challenges were confirmed by the Election Officer investigation.

(1) McAcroy Vitrified Brick Co.

Three members whose ballots were challenged were employed by McAcroy Vitrified Brick Co. which went out of business in January of 1991. These were the only employees of McAcroy and were all on dues checkoff. Since this employer is no longer in business, no employment information is available for review by the Election Officer. The dues remittance record of McAcroy was very irregular. The TITAN records of all three members showed an identical pattern. Dues were checked off and timely remitted monthly until October, 1987. After that date, there were months in which the employer made no remittance (November 87, September 88, November 88, April 89, February 90, April 90, May 90, August 90, September 90, October 90), and months with multiple remittances (June 1989, December 88, January 89, June 90, July 90 and December 90). The sum of these remittances over the two years leaves the members two months behind in dues. Each of the three members employed by McAcroy was employed until the company closed, all were on checkoff at all times. The Election Officer concludes that the dues arrearages for these members were caused by the failure of the employer to make proper remittances to Local 384 of the dues deducted. In accordance with the IBT Constitution, Article X, § 5 (c), these members are eligible to vote.

| | |
|------------------|-------------|
| Charles Armorer | 413-70-0599 |
| Steve McAvoy | 181-38-7236 |
| Harry Van Elwyck | 186-24-3382 |

(2) Laidlaw

Four members employed by Laidlaw were challenged on the basis of delinquent dues. The TITAN record for each of these members indicates a dues arrearage. A review of the TITAN for each member however reflects that the delinquency was caused by an error in the posting of dues, checkoff dues payments having been posted for months in which the member was on honorable withdrawal from the Local Union, and thus owed no dues. A posting error does not adversely affect the good standing of a member. Therefore it is determined by the Election Officer that the following members are eligible to vote:

| | |
|--------------------|-------------|
| Donna Custer | 200-46-7633 |
| Charles E Kaeppler | 199-16-5033 |
| Kevin M Jessup | 187-46-3666 |
| Andrew E Mason | 170-34-3428 |

(3) UPS

The following members, all on checkoff dues payment, and employed by UPS, showed a variety of irregularities in their TITAN records which led to arrearages and the subsequent challenge of their ballots⁴. In all cases, the Election Officer's investigation determined that the arrearages arose from periods when the members in question both worked and had earnings. Therefore, in accordance with the IBT Constitution, Article X, § 5 (c), these members may not be held liable for their employer's failure to properly deduct and remit dues correctly. The members listed below are eligible to vote

| | |
|--------------------|-------------|
| Glenn S. Bolders | 210-64-1795 |
| Nancy L. Leisner | 191-64-3946 |
| Lisa Rothbardt | 160-54-2016 |
| Diane L Haenn | 159-46-1727 |
| William P. Gibbons | 180-54-2253 |
| Richard G Maher | 191-48-5570 |
| Henry L. Worthy | 165-48-2350 |
| Marcus Tomlin | 205-40-6441 |
| John C. Roberts | 161-58-6264 |
| David F Priest | 206-42-4336 |
| James W Keyser | 191-34-8720 |
| Robert A Hartley | 204-38-2139 |

⁴The TITAN record of other members also employed by UPS, demonstrated that UPS had deducted and remitted dues for November, 1990. Thus, the records indicated that UPS dues remittances were current and that no November, 1990 dues had been deducted or remitted for only a small percentage of the members employed by UPS. Since all other members' dues were current, the record suggested that these members had not worked in November, 1990 and thus were not in good standing with the Local. On this basis, the Regional Coordinator sustained the challenges.

| | |
|--------------------|-------------|
| Frank A. Schneider | 161-58-2437 |
| Mathew Sykes | 182-56-5961 |
| Jeannie Driscoll | 200-48-1456 |
| Stephenn Di Florio | 179-54-8787 |

The TITAN records of three members employed by UPS, Ronald E. Morris, Leonard Ross and Susan M. Bednarz, indicates a dues delinquency which has been determined to be an error in posting similar to the error discussed above regarding the Laidlaw employees. In each case, the member had requested and was given an honorable withdrawal card. Due to a posting error, the card was shown as deposited in the month of issuance. After such members return to active employment, the error resulted in dues payments being credited for months the members were on withdrawal, thereby creating a delinquency where none existed. The Election Officer determines that Ronald Morris, 199-34-6314, Leonard J. Ross, 188-42-3321, and Susan Bednarz, 201-52-7268, are members in good standing and therefore eligible to vote.

(4) Devault Construction Company

James Kissling is employed by Devault Construction Company and signed a checkoff authorization on September 25, 1990. He had earnings from which dues could have been deducted in every month thereafter. At the time of the vote, his employer had submitted only one month of dues which was credited to October, 1990 dues. Pursuant to the IBT Constitution, Article X § 5 (c), the employee cannot be held liable for the employer's failure to properly deduct dues from any month in which the employer has earnings. Thus, James Kissling, 201-46-2327, is eligible to vote.

(5) Other Delinquencies

Challenges to the ballots cast by the following members for delinquency of dues are overturned by the Election Officer based on review of TITAN records containing entries not posted at the time of the election. The updated records reflect that these members were eligible to vote, having paid their dues through November, 1990 prior to the election⁵:

| | |
|----------------------|--------------|
| Paul W. Karnes | 195-32-8668. |
| Gary Malachowski | 211-42-0511 |
| Loren Fox | 204-40-9110 |
| Edward Clements, Jr. | 137-60-4294 |
| Richard Peltz | 201-50-7082 |

Finally, John B. Pedrick, 185-28-7955, is found to be eligible to vote. A review of his TITAN record reflects that he obtained an honorable withdrawal card on February 14, 1990. He deposited the card in November of 1990. A checkoff dues payment was

⁵Once again, the Regional Coordinator sustained the challenges to these ballots based on the TITAN records available for review at the election which indicated dues arrearages. Updated information received by the Election Officer confirms that these members are eligible to vote.

received by the Local in November, 1990 which should have been applied to November, 1990 dues but was erroneously posted as payment for dues owed in January, 1990. His January, 1990 dues had been paid, however, on January 19, 1990; the November, 1909 payment should have been credited to November, 1990 dues Thus, John B. Pedrick, Jr , 185-28-7955, is eligible to vote

Summary:

Accordingly, the protest filed by Messrs Dougherty and Nagle with regard to the validity of challenged ballots is hereby **GRANTED** as to the following 69 members

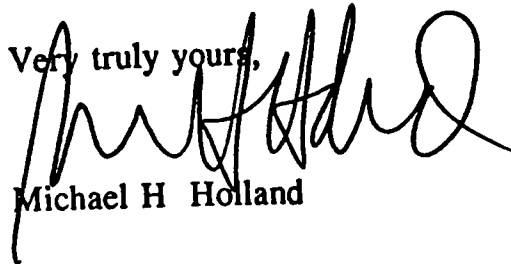
| | | | |
|----------------------|-------------|---------------------|-------------|
| Richard Adinolfi | 053-66-2893 | Richard G Maher | 191-48-5570 |
| Charles Armorer | 413-70-0599 | Gary Malachowski | 211-42-0511 |
| Mark L Balch | 190-60-4704 | Andrew E Mason | 170-34-3428 |
| Ronald Z Beavers | 177-60-7288 | Steve McAvoy | 181-38-7236 |
| Susan Bednarz | 201-52-7268 | Kevin M McManus | 195-50-0157 |
| Michael N Blessig | 206-66-9842 | Daniel K Metzger | 280-52-2120 |
| Glenn S Bolders | 210-64-1795 | Eric Mienzenger | 165-54-7195 |
| Patrick Brennan | 177-46-6678 | Stephen B Mochulski | 167-58-2241 |
| Peter E Bullock | 169-60-3956 | Kathleen Monaghan | 206-56-0692 |
| Patrick Corhran | 185-36-8524 | Brian G Morris | 168-62-4763 |
| Christin Cummings | 177-52-3381 | Ronald Morris | 199-34-6314 |
| Donna Custer | 200-46-7633 | Kevin D Morris | 199-48-5519 |
| Jeanne Driscoll | 200-48-1456 | Thomas Nowak | 222-60-9990 |
| Harry Van Elwyck | 186-24-3382 | Richard Peltz | 201-50-7082 |
| Calvin Felicianu | 178-52-3017 | Michael A Petrack | 183-50-5009 |
| Stepehn Di Florio | 179-54-8787 | David F Priest | 206-42-4336 |
| Loren Fox | 204-40-9110 | Rodney J Pruitt | 210-52-1253 |
| William P Gibbons | 180-54-2253 | Joel Ramos | 151-64-7154 |
| Mark T Grade | 191-62-7762 | John C. Roberts | 161-58-6264 |
| David S. Gruntfest | 201-44-4326 | Leonard J Ross | 188-42-3321 |
| Diane L Haenn | 159-46-1727 | Lisa Rothbardt | 160-54-2016 |
| Robert A Hartley | 204-38-2139 | Elizabeth Scanlon | 185-36-7954 |
| Scott T Hessenhauser | 214-50-8176 | Shawn F. Scarano | 179-46-8480 |
| Patrick Holleran | 160-48-4382 | Frank A Schneider | 161-58-2437 |
| Kevin M Jessup | 187-46-3666 | William Shoemaker | 136-58-8110 |
| James A Jones | 207-48-8505 | Kathleen A Smith | 141-36-3242 |
| Edward Clemments, Jr | 137-60-4294 | Robert Spruhde | 196-58-8670 |
| John B Pedrick, Jr | 185-28-7955 | Leo W Clayboss, Sr | 169-26-9820 |
| Charles E Kaeppler | 199-16-5033 | Mathew Sykes | 182-56-5961 |
| Paul W Karnes | 195-32-8668 | Frank J Tomas | 188-66-7665 |
| James W Keyser | 191-34-8720 | Marcus Tomlin | 205-40-6441 |
| John Killian | 154-54-2383 | Robert M Turner | 182-58-4803 |
| James Kissling | 201-46-2327 | Jeff B Tyson | 199-38-4168 |
| Nancy L Leisner | 191-64-3946 | Henry L Worthy | 165-48-2350 |
| Jeanne Maccaro | 203-50-4542 | | |

Neil J. Dougherty
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The Election Officer directs that these ballots be counted under the direction of Regional Coordinator Peter Marks who will advise the Local and all candidates, or their slate representatives, of the date, time and place of the count. The investigation of the Election Officer revealed that the remaining 80 members whose ballots were challenged, and the challenges sustained, were not member in good standing at the time of the election. Thus, the protest as to those members 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/mca

cc: Frederick B Lacey, Independent Administrator
Peter V Marks, Sr, Regional Coordinator