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April 3, 1991

**VIA UPS OVERNIGHT**

Vincent L Meredith  
c/o Local 89 Rank & File  
Slate for Ron Carey  
203 Elk River Drive  
Louisville, KY 40214

Norman C Hug  
c/o Norman C Hug Slate  
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3813 Taylor Blvd.  
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Re: Election Office Case No. Post45-LU89-SCE

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 Vincent Meredith, a candidate for delegate from the Local to the 1991 IBT International Convention. Mr Meredith contends that the mail ballots sent to the members of Local 89 were faulty in that the name and address labels on the return ballot outside envelope were not firmly affixed. The *Rules* provide that ballots returned without labels will not be counted. Therefore, Mr Meredith concludes that due to the faulty labels hundreds or thousands of voters whose return ballot envelope had a loose label, or where the label had fallen off, failed to vote believing that their vote would not be counted. Thus, he contends that the loose labels may have affected the outcome of the election requiring a new election.<sup>1</sup>

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<sup>1</sup>The post-election protest refers to four pre-election protests which Mr Meredith contends may have affected the outcome of the election. The Election Officer has ruled on all but one of these protests and remedied pre-election, any violations which he determined had occurred. Where no violation occurred, no remedy was ordered. The Election Officer will not review those findings post-election. Pre-election protest Case No P-065-LU89-SCE was the subject of a determination by the Election Officer.

The Local Union 89 delegate election was held on February 28, 1991. 13,744 ballots mailed to the members of Local Union 89 and 3,514 of those ballots were cast.<sup>2</sup> Each ballot packet mailed contained, inside, a return ballot envelope with the name and address of the member affixed thereon with a label which was visible through the mailing envelope for purposes of mail delivery. The label on the return envelope was the same label which permitted delivery of the mail ballot packet. If such label were loose or missing, the mail ballot packet could not be delivered.

The Regional Coordinator has advised the Election Officer that some of these address labels were in fact loosely affixed to the envelopes because of a failure of the mailhouse to put sufficient glue on them. However, only seven ballot packages were returned as undeliverable due to the mailing label becoming loose during the mailing process. Mr. Meredith does not allege, nor is there any evidence to support a finding, that members did not receive their ballots.

Mr. Meredith alleges, however, that many of the members may not have returned their ballots if the mailing label had become detached after the ballot packet was received, because the mail ballot instructions state that the label must be affixed to the return envelope or the ballot will not be counted. The instructions also state that the label should not be removed or defaced.

The Regional Coordinator has advised the Election Officer that at the time the return ballots were picked up from the Post Office, there were many envelopes with loose labels that were immediately taped to the envelope by the Regional Coordinator. In addition, 301 envelopes were received with no labels. These envelopes were set aside by the Regional Coordinator during the initial count. Seventeen (17) delegates were to be elected. The tally for the initial count showed that the difference between the 17th ranked candidate (the lowest vote-getting winner) and the 18th ranked delegate candidate (the highest vote-getting loser), Mr. Meredith, was 122 votes. Since the 301 ballots received without a label affixed may have affected the outcome of the election, those ballots were, in fact, separately counted to determine if the loose label problem could

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December 5, 1990 from which no appeal was taken. The Election Officer issued a determination in Case No. P-292-LU89-SCE on January 16, 1991. The decision was appealed to the Independent Administrator and the determination of the Election Officer was affirmed. The Election Officer issued a determination in Case No. P-603-LU89-SCE on March 6, 1991. No appeal was taken by Mr. Meredith of the decision of the Election Officer. Finally, Case No. P-255-LU89-SCE filed by Mr. Meredith has been consolidated along with numerous other cases with Election Office Case No. P-284. This pre-election protest along with all others with which it has been consolidated will be decided in the future by the Election Officer.

<sup>2</sup>The ballots mailed included a mailing to approximately 600 members who were not considered active members for various reasons, e.g., failure to pay initiation fee, withdrawal, suspension, etc.

have affected the election results After counting those ballots, the outcome remained unchanged

Mr Meredith contends that the loose labels disenfranchised hundreds or thousands of voters. Based upon the mail ballot instructions contained with the ballot package, voters receiving packets with loose labels, or where the labels fell off after receipt, would believe, it is alleged, that they could not return their ballots or tape or otherwise affix the mailing label to the return envelope

Mr Meredith admits, of course, these members could have called the Election Office to receive instruction No members did so. The Regional Coordinator has advised the Election Officer that she received approximately thirty requests for ballots but no duplicate ballots were requested due to a loose label Mr Meredith contends that members were fearful of calling and that is the reason no calls were received about the labels

Mr Meredith does not provide any evidence as to that claim The Election Officer notes that the wide publicity given to the role of the Election Officer and his staff throughout the United States and Canada and in particular at this Local Numerous pre-election protests were filed by Local 89 members, notices have been posted throughout the Local at the direction of the Election Officer Members of Local 89 were aware of the role and independence of the Election Officer and the Regional Coordinator. It is counterintuitive to suggest that the lack of calls resulted from fear, particularly fear that the Regional Coordinator would "inform" on the members

Mr Meredith did not produce evidence of any members not returning a ballot due to the loose label Rather, he contends that since only 21% of the membership returned their ballots, the loose labels must have been the cause of members not voting

The Election Officer has reviewed eight mail ballot delegate and alternate delegate elections in Locals where over 8,000 ballots were mailed to determine the voter turnout for similar elections The average rate of return for these 8 Locals was 23% The rate of return of mailed ballots for Local 89 was 25%, not 21% as Mr Meredith contends 13,774 ballots sent<sup>3</sup> and 3,514 ballots returned The voter turnout of 25% is consistent with the rate of return of a neighboring Local, Local 783, where 4,631 ballots were mailed and 1,152 were cast, giving Local 783, like Local 89, a 25% rate of return of

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<sup>3</sup>It should be noted that the number of ballots mailed to members will always exceed the number of voters actually eligible to vote, for the following reasons When mailing ballots, the Election Officer works from a list that includes Union members who are laid off, and who have not completed the payment of their initiation fees. This list is prepared some 25 days or so before the ballot count The election day roster, prepared about 20 days later (or about 5 days before the ballot count) does not include those laid off members (unless they have returned to work) or those who have not, during the 20 day or so period between the mailing of ballots and the preparation of the election day roster, completed payment of their initiation fees

Vincent L. Meredith  
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mailed ballots Mr Meredith presents no direct evidence to support his statements that members did not return ballots due to the loose labels nor does a review of other Local Unions with large mail ballot elections support a conclusion that a 25% turnout is low

In further support of his protest, Mr Meredith also states that the 301 ballots counted which contained no labels were disproportionate to the remainder of the count, that is, Mr. Meredith received a greater percentage of votes from those 301 ballots than he did generally Mr. Meredith concludes that the members who received ballots with very loose labels were therefore members who were more prone to vote for him rather than the other slate of candidates As discussed above, there is no evidence to support Mr. Meredith's claim that members did not vote because of the loose label. Further, there is no shred of evidence, and it is statistically incomprehensible, to suggest a relationship between loose labels and Meredith's voters. Lastly, while Mr Meredith received a greater percentage of votes from the 301 ballots than he did from the other votes counted, he only received slightly less than 50% of such votes. Mr. Meredith could never overcome the lead of his opponents by receiving only 50% of the votes.

Article XI, § 1 (b) of the *Rules* provides that post-election protests shall only be considered and remedied if the alleged violation may have affected the outcome of the election For a violation to have affected the results of an election, there must be a meaningful relationship between the violation and the results of the election. See Wirtz v. Local Union 410 et al., 366 F 2d 438 (2nd Cir 1966). Based on the foregoing discussion, it is determined that the loose labels had no effect on the outcome of the election. Accordingly, the post-election protest of Mr Meredith 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  
Peggy A Hillman, Regional Coordinator

89/SCF

91 - Elec. App. - 125 (SA)

IN RE:  
VINCENT L. MEREDITH,  
and  
IBT LOCAL UNION NO. 89

DECISION OF THE  
INDEPENDENT  
ADMINISTRATOR

APR 16 1991

This matter arises out of an appeal from an April 3, 1991, decision of the Election Officer in Case No. [REDACTED]. A hearing was held before me by way of telephone conference on April 11, 1991, at which the following persons were heard: John J. Sullivan and Barbara Hillman, on behalf of the Election Officer; Peggy Hillman, the Regional Coordinator; the complainant, Vincent Meredith; and Charles Spond, the Secretary-Treasurer of Local 89.

Mr. Meredith contends that the mail ballots sent to the members of Local 89 were faulty in that the name and address labels on the return ballot outside envelope were not firmly affixed. The Rules For The IBT International Union Delegate And Officer Election (the "Election Rules") provide that ballots returned without labels will not be counted. Accordingly, Mr. Meredith suggests that due to the faulty labels, hundreds, if not thousands, of members failed to vote believing that their vote would not be counted. Thus, he contends that the loose labels may have affected the outcome of the election requiring a re-run. See Election Rules, Article XI, Section 1.b.(2) ("Post-election protests shall only be considered

and remedied if the alleged violation may have affected the outcome of the election.")

Mr. Meredith is a member of Local 89. Mr. Meredith lost in his bid for a delegate position in an election conducted by mail in February 1991. Mr. Meredith ran on the "Local 89 Rank-and-File Slate For Ron Carey."

As noted, Local 89's election was conducted by mail ballot. The ballots were mailed to members in an envelope that contains cellophane window on the front. Inside the outer envelope is a business reply envelope with a name and address label affixed thereto. That label shows through the outside envelope so that the Post Office can deliver the ballot. Inside the business reply envelope is a secret ballot envelope. The members are instructed to place the ballot inside the secret ballot envelope. The secret ballot envelope is then placed inside the business reply envelope. Article XII, Section 3.c.(4) of the Election Rules provides that a ballot will not be counted if it is missing the pre-affixed label containing the voter identification information unless the voter writes that same information on the business reply envelope.

In this case, the Election Officer acknowledges that labels were not always adequately affixed to the business reply envelopes. When the representatives of the Election Officer retrieved the ballots from the Post Office, it was discovered that many labels were loose on the return envelopes. These were secured with scotch-tape. However, on 301 envelopes, the labels were missing completely.

Furthermore, the speculation that the label problem prevented members from voting is belied by the fact that the Regional Coordinator did receive a number of inquiries from members asking what to do with the loose labels. The Regional Coordinator directed those members to scotch tape the label to the envelope. Thus, it appears that if any member wished to vote and was concerned with the loose label problem, a proper inquiry was made.

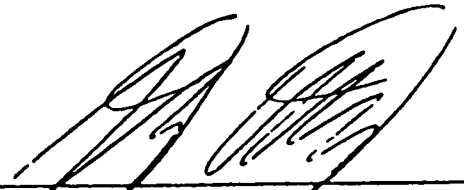
Mr. Meredith also suggests that voters may not have received ballots due to the loss of labels. This is simply not possible. Without the label, the Post Office would have been unable to deliver the ballots.

Given all this, the Election Officer concluded that:

Mr. Meredith's conjecture that loose mailing labels may have deterred a significant number of members from voting in the election and, more importantly, from casting their ballots for him, is simply too remote to justify the setting aside of the election . . .  
[Emphasis in original.]

In short, the Election Officer was "unable to conclude that the outcome of the election may have been affected so as to require a new election pursuant to" the Election Rules. The circumstances here support the Election Officer's determination.

Accordingly, the decision of the Election Officer is affirmed.



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Independent Administrator  
Frederick B. Lacey  
By: Stuart Alderoty, Designee

Dated: April 15, 1991