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VIA FACSIMILE

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Re: Election Office Case No. P-565-LU996-CLA

Gentlemen:

A protest was filed by Mark Komomua, a member of Local Union 996, pursuant to Article XIV, Section 2(b) of the ***Rules for the 1995-1996 IBT International Union Delegate and Officer Election ("Rules")***, alleging that the Election Officer failed to recognize his nomination as a delegate from Local Union 996 to the International convention.

The protest was investigated by Regional Coordinator Dolly Gee.

On February 24, 1996, a nomination meeting was held for Local 996 in Honolulu, Hawaii. Nominations were conducted by Election Office Representative Thomas A. DiGrazia. The protester, Mark Komomua, states that he attended the nomination meeting with the intention of being nominated from the floor as part of the Chambrella slate. He had previously signed a Chambrella slate declaration petition.

The investigation disclosed that a number of errors were made in regard to the conduct of this meeting. Ron Kazuma is the secretary-treasurer of Local 996. He is also a delegate candidate and the representative for the Chambrella slate. Prior to the nomination meeting, Mr. Kazuma obtained a form to use in submitting written nominations, seconds and acceptances for the delegate nomination process. All candidates on the "Chambrella slate," except Mark Komomua, filled out these forms and turned them in to Mr. Kazuma before the nominations meeting. Two other slates--the Slim slate and the Teamsters 2001 slate--also

submitted written nominations, seconds, and acceptances to Mr. Kazuma, as did several independent candidates. While each of these written nominations, seconds, and acceptances had been submitted to Mr. Kazuma by 5:00 p.m. on February 23, 1996 (the day prior to the nomination meeting), they had not been turned over to Mr. DiGrazia at that time. Nor had Mr. DiGrazia received any of these written nominations, seconds, and acceptances prior to attending the local union nomination meeting. Hence, there was initially a technical violation by all of the candidates insofar as Article II, Section 5(f) requires a nomination or second be presented to the Election Officer or her representative no later than 5:00 p.m. of the day immediately prior to the nomination meeting.¹

Compounding these procedural errors was the fact that Ron Kazuma, presented Mr. DiGrazia with the written nominations and acceptances prior to the meeting for all candidates except those on the Chambrella slate. Hence, none of the Chambrella slate's written acceptances, nominations, and seconds were available for Mr. DiGrazia before he conducted the nomination meeting.

Mr. DiGrazia was also presented with three completed slate declaration forms. Mr. DiGrazia read the three slate names and indicated that these slates were nominated. He then read the nominations of the independent candidates. At this point, Mr. DiGrazia asked whether there were any nominations from the floor. There were none.

There are conflicting accounts as to whether the names of the candidates on each slate were read aloud by Mr. DiGrazia. However, all of the witnesses state that Mr. DiGrazia did not announce the names of any nominators or seconders for candidates who appeared on slates. Following the reading of the slates, someone from the floor asked whether candidates on a slate needed to be nominated from the floor, to which Mr. DiGrazia answered "no." The protester did not pursue a floor nomination based on Mr. DiGrazia's response and the fact that his slate had been announced.

¹Article II, Section 5(g) provides that an acceptance can be furnished to the local union or to another member who can produce it at the meeting at the time the member is nominated. If the acceptance is furnished to the local union, however, copies of the acceptance should also be submitted to the Election Officer or her representative no later than 5:00 p.m. on the day immediately prior to the day of the relevant nomination meeting.

The protester further contends that he was misled by Secretary-Treasurer Kazuma. Prior to the meeting, Mr. Komomua asked Mr. Kazuma if any other paperwork needed to be done to complete his nomination and Mr. Kazuma indicated that there was not. After the nominations were closed, Mr. Komomua again asked Mr. Kazuma whether he was sure he didn't need any more paper from him. Mr. Kazuma then became aware that he did not have written nominations for any of the candidates on the Chambrella slate with him, and that Mr. Komomua had not filled out a written nomination and second form like others on the slate, all of which he had left at his office. Based on this information, Mr. Komomua then asked Mr. DiGrazia for a candidate information sheet and filled it out with a nominator and seconder. Mr. DiGrazia asked both of these individuals whether they were nominating and seconding Mr. Komomua. They both affirmed that they were. An opposing candidate, Slim Ilae asked what was going on and objected that it was too late for Komomua to be nominated because the nominations were over. Mr. DiGrazia said that he would take the candidate information sheet, "subject to review."

Having reviewed the evidence in this matter, the Election Officer concludes that the nomination process was indeed flawed. Several errors were made with respect to the proper course of events. Written nominations were not submitted to the Election Officer or the representative of the Election Office the day prior to the meeting. No copies of acceptances were submitted to Mr. DiGrazia the day prior, although such acceptances were submitted to the local union pursuant to the **Rules**. At the meeting, Election Office Representative DiGrazia read off the slate names, but did not indicate nominators or seconders of candidates, as required under the **Rules**, Article II, Sections (f) and (g). Based on the evidence, the Election Officer also finds that Mr. DiGrazia stated that candidates running on slates need not be nominated on the floor.

The failure to announce the names of the nominators and seconders for slate candidates prevented clarification of the situation during the nominations portion of the meeting. Mr. DiGrazia's announcement of the slate names and his declaration that the slates were "nominated" deprived members of the ability to cure any mistakes or misunderstandings about which of the slate candidates had been nominated in writing and which had not.

Both the Consent Decree and the Labor-Management Reporting and Disclosure Act ("LMRDA") require that all candidates who wish to be nominated be given a reasonable opportunity to do so at the nomination meeting. The Election Officer has previously excused technical violations in the **Rules** regarding written nominations, seconds, and acceptances in order to preserve the spirit of the Consent Decree and the LMRDA mandate in this regard. Ron Carey Experienced Slate, P-521-LU125-PNJ (March 4, 1996); Sather, P-498-LU638-NCE (March 5, 1995), McGill, P-331-LU213-CAN (January 25, 1996). Similarly the Election Officer recently denied a protest involving allegations that the Regional Coordinator had been "too slow" in closing nominations while making sure that all nominations intended to be made were made in the course of the meeting. See Fiori, P-491-LU726-EOH (February 23, 1996), aff'd, 96 - Elec. App. - 122 (KC) (March 7, 1996).

It is clear from the evidence that Mr. Komomua intended to be nominated based on his slate petition signature, as well as his seeking advice from Mr. Kazuma as to written papers he needed. He and other members of the slate were also under the impression that their

nominations would be made from the floor. This did not occur, and while it is arguable that Mr. Komomua should have known of the written nomination procedure, Mr. DiGrazia's comments regarding the slate declarations and the lack of any oral presentation of nominators and seconders can reasonably be found to have created the confusion that Mr. Komomua faced. Therefore, this protest is GRANTED.

To remedy this violation, the Election Officer orders that Mr. Komomua's name be added to the ballot as a candidate for delegate on the Chambrella slate. His name shall also be added to the nomination posting and this amended posting shall replace the original posting on all local union bulletin boards. The secretary-treasurer of Local Union 996 shall submit an affidavit within two (2) days of receiving this decision indicating that this action has been taken and attaching a copy of the amended nomination posting.

Any interested party not satisfied with this determination may request a hearing before the Election Appeals Master within one day of 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:

Kenneth Conboy, Esq.
Latham & Watkins
885 Third Avenue, Suite 1000
New York, NY 10022
Fax (212) 751-4864

Copies of the request for hearing must be served on the parties listed above as well as upon the Election Officer, 400 N. Capitol Street, Suite 855, Washington, DC 20001, Facsimile (202) 624-3525. A copy of the protest must accompany the request for a hearing.

Sincerely,

Barbara Zack Quindel
Election Officer

cc: Kenneth Conboy, Election Appeals Master
Dolly Gee, Regional Coordinator