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December 17, 1990

VIA UPS OVERNIGHT

Charles F. Kuehlem, Jr.
Route 2, Old Alvarado Highway
Burleson, TX 76028

Larry W. Brown
524 E. Mission
Crowley, TX 76036

Daulton L. Alexander
649 Lynnewood
Burleson, TX 76028

Carl E. Warner
611 Reeves Lane
Kennedale, TX 76860

Jerry D. Putnam
Secretary-Treasurer
IBT Local Union 997
137 Sycamore School Road
Suite 102
Fort Worth, TX 76134

Don Pettke
716 Patty B. Lane
Burleson, TX 76028

Re: Election Office Case No. P-084-LU997-SOU

Gentlemen:

A timely pre-election protest was filed under Article 11, §1 of the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("Rules"). The protest challenges the eligibility of nominated 1991 IBT International Union Convention delegate Charles F. Kuehlem, Jr., on the grounds that he was improperly nominated and seconded.

Mr. Kuehlem was both nominated and seconded in writing. The protester alleges that both the written nomination and second were improper, since neither the nominator, Larry W. Brown, nor the seconder, Don Pettke, met the requirements of the *Rules* for making written nominations or seconds. The protest further alleges that the written second of Mr. Pettke was also invalid in that Mr. Pettke's social security number did not appear on his written second.

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Article II, §3(f) of the Rules permits written nominations to be made if the member is unable to attend the nominations meeting due to, inter alia, vacation schedule. It is conceded that neither Mr. Brown nor Mr. Pettke were on vacation from their regular employment during the work weeks prior or subsequent to the nominations meeting. However, the Election Officer's investigation determined that Messrs. Brown and Pettke were nonetheless on vacation, albeit a "mini-vacation", over the weekend during which the nominations meeting was held.

Miller Brewing Company where both Messrs. Brown and Pettke are employed, apparently often schedules Sunday work, but was scheduled to be closed on Sunday, December 2, 1990. Taking advantage of such closure, both Messrs. Brown and Pettke made arrangements to take weekend skiing vacations during the weekend encompassing Sunday, December 2, 1990. Both were, accordingly, in Colorado, although at different sites, on the December 1, 1990 nominations meeting date.

The Election Officer's investigation determined that the vacations taken by Messrs. Brown and Pettke were scheduled long prior to the dates on which nomination notices were distributed and the Local Union Election Plan Summary posted. The notice of nomination was distributed on November 12, 1990. The Local Union Election Plan was approved in its entirety on November 29, 1990 and the summary posted thereafter. Mr. Brown scheduled his trip on October 5th, 1990; Mr. Pettke scheduled his trip on August 22, 1990.

Under these circumstances, the Election Officer has determined that both Messrs. Brown and Pettke were unable to attend the nominations meeting in person due to the vacation schedule of each, and, therefore, both were eligible to nominate or second a nomination in writing under and in accordance with Article II, §3(f) of the Rules.

The protest also seeks to invalidate the nomination of Mr. Kuehlem on the basis that Mr. Pettke's written nomination did not include his social security number. The election officer declines to invalidate Mr. Pettke's second on the basis that such written second did not contain Mr. Pettke's social security number.

The Rules state that a written nomination "shall be signed by the member submitting the nomination or second with his/her Social Security number and the reason(s) the member is unable to attend the meeting." Rules, Article II, §3(f). The purpose of this Rule, however, is to permit identification of the nominator or seconder, nominating or seconding in writing, to ensure that such nominator

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or seconder is indeed a member of the Local Union and to facilitate verifying eligibility of such nominators or seconders, should such question be put in issue.

In this case, however, no such questions of identification or membership in good standing arises. It is undisputed that Mr. Pettke is a member of and in good standing with Local Union 997 and eligible to second Mr. Kuehlem's nomination. Under these circumstances, the Election Officer will not invalidate Mr. Kuehlem's nomination on the basis of Mr. Pettke's technical violation of the Rules. Accordingly, on the basis of the foregoing, the protest is DENIED in its entirety.

If any person is not satisfied with this determination, he may request a hearing before the Administrator within twenty-four (24) hours of his receipt of this letter. Such request shall be made in writing and shall be served on Administrator Frederick B. Lacey at LeBoeuf, Lamb, Leiby & MacRae, One Gateway Center, Newark, N.J. 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. 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.

Very truly yours,



Michael H. Holland

MHH/sst

cc: Mr. Frederick B. Lacey
Larry Daves, Regional Coordinator