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January 9, 1991

**VIA UPS OVERNIGHT**

Don McGill, President  
IBT Local Union 213  
490 East Broadway  
Vancouver, British Columbia,  
CANADA V5T 1X3

All Candidates for Delegate or  
Alternate Delegate and All  
Nominators and Seconders on the  
Attached List

Re: Election Office Case No. P-173 and 174-LU213-CAN  
E-163-LU213-CAN

Gentlemen:

A pre-election protest was filed pursuant to Article XI, § 1 of the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("*Rules*"). In his protest, Don McGill contends that all members whose names appear on Exhibit A to this Decision are ineligible to nominate and second candidates for the position of delegate to the 1991 IBT International Convention. He also contends that all members whose names appear on Exhibit B to this Decision are ineligible to run for the position of delegate or alternate delegate to the 1991 IBT International Convention. Mr McGill protests further that the written acceptance of nomination by candidate Mickey McLaughlin is impermissible under the *Rules*, and that the written nomination, second and acceptance by Ghopal S Bhullar is not permitted by the *Rules*. Additionally, Mr. McGill protests that the designation of the Slate Name "213 Teamsters for Teamsters" contravenes the *Rules*.

I. **The Eligibility of the Nominators and Seconders under Protest**

In order to be eligible to nominate or second a candidate for the position of delegate or alternate delegate, a member must be in good standing with his/her dues paid through the month prior to the nominations meeting. The nominations meeting in this

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case was held on December 18, 1990. Therefore all qualified nominators and seconders must show dues paid for the month of November, 1990.

A review of the TITAN Record shows that all members whose names are listed on Exhibit A are in good standing with the exception of those members discussed below.

The TITAN shows that William Heinrich, John Marshall, Charlene Cowx, Heather Hohn, and Gerald Siluk had no dues payments in November, 1990. The Election Officer determined, however, that the Employer submission and the Union posting of dues for these members is frequently one month late. In this case, each of these members, who is on dues check-off, worked, and had earnings from which dues could have been deducted for the month of November, 1990. Therefore, each of these members is eligible to nominate and/or second. IBT Constitution, Article X, § 5(c). Thus, all of the members whose names appear on Exhibit A are eligible to nominate and second for the reason that their dues have been timely paid through the month preceding the nomination meeting.

## II. The Eligibility of All Members Under Protest Who Are Candidates for Delegate/Alternate Delegate

In order to be eligible to run for delegate or alternate delegate to the IBT International Convention, a member must be in continuous good standing with his Local Union with the dues paid to the Local for a period of twenty-four (24) consecutive months prior to the month of nomination with no interruptions in active membership due to suspensions, expulsions, withdrawals, transfers, or failure to pay fines or assessments. *Rules*, Article VI, § (1)(a)(1).

A review of the TITAN Record shows that all members whose names appear on Exhibit B have dues timely paid for the twenty-four consecutive month period preceding the nomination meeting, with the exception of the members discussed below.

The TITAN Record showed that Mr Wilbert Heinrich had three instances of late dues payments during the relevant twenty-four month period. The TITAN shows that for Mr Heinrich, who is on dues check-off, January, 1989 dues were paid March 2, 1989, February, 1989 dues were paid March 31, 1989; and July 1989 dues were paid September 12, 1989. The TITAN Record showed no dues for November, 1990, but, as discussed previously, this Local posts the Employer deducted dues a month late because they are received late for all members on dues check-off. The Election Officer investigated and determined that, in fact, Mr Heinrich had earnings during all the months in question, including November, 1990, from which dues could have been deducted, but for Employer error. He is not, therefore, ineligible to run for the position of delegate for the reason of late dues payment. IBT Constitution, Article X, § 5 (c).

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The TITAN Record shows that Mr. John Marshall, who is on dues check-off, had late payments for every month commencing November, 1988 through October, 1990. The TITAN Record showed no earnings for November, 1990, but the Local Union confirmed that November, 1990 dues from Mr Marshall's Employer will not be received or posted until sometime subsequent to November, 1990. The Election Officer investigated and determined that, in fact, Mr. Marshall had earnings for every month from December, 1988 through November, 1990 from which dues could have been deducted, but for Employer error. Therefore, Mr. Marshall is eligible to run for the position of delegate. IBT Constitution, Article X, § 5 (c).

The TITAN Record reflects late cash dues payments for Mr. George Fennell during the relevant twenty-four consecutive month period. January and February, 1989 dues were paid March 1, 1989 October, 1989 dues were paid November 27, 1989. July, 1990 dues were paid August 27, 1990. The Election Officer spoke to Mr. Fennell, and Mr Fennell agrees that his cash dues payments were in fact paid late for the period of time at issue. Therefore, Mr Fennell is ineligible to run for the position of delegate for the reason that he has not timely paid his dues for the twenty-four consecutive month period prior to the December, 1990 nomination meeting.

The TITAN Record reflects that Mr Ralph Nielson, a cash dues payer, paid annual cash dues for the year commencing January, 1989 in April, 1989, and dues for the year commencing January, 1990, in February, 1990. The Election Officer spoke with Mr. Nielson who stated that he believed the annual dues for 1989 were paid timely, but agreed that he did not pay his 1990 dues until February 26, 1990. It follows that Mr Nielson is ineligible to run for the position of delegate for the reason that he has not timely paid his dues to the Local for a period of twenty-four consecutive months prior to the nominations meeting

The TITAN Record shows that Michael McLaughlin, a cash dues payer, paid his annual cash dues for the year commencing January, 1989, on February 3, 1989. The Election Officer investigated and spoke with the TITAN operator at the Local, as well as Mr McLaughlin The TITAN operator does not have 1989 records, but states that dues are sometimes posted four days late. February 3rd is within the four-day posting practice. Mr. McLaughlin cannot find his records from 1989, but insisted to the Election Officer that he paid by check in January, 1989. He tendered his checks from 1988 and 1990 to the Election Officer, showing that his practice has been to pay up his annual dues in January

The Election Officer concludes under these circumstances that Mr McLaughlin has timely paid his dues and is in fact eligible The uncertainty of the Local, as to the exact receipt date, the fact that the February 3rd date shown on the TITAN is within four days from the last day of January, 1989 in conformity with the Union's statements regarding late posting, and Mr. McLaughlin's own insistence as to

the timely January payment of his dues, cause the Election Officer to conclude that the dues were timely paid. Thus, Mr. McLaughlin is eligible to run for the position of delegate for the reason that he has timely paid his dues for the twenty-four consecutive months preceding the nomination meeting.

III. The Propriety of the Written Nomination, Second, and Acceptance of Mr. Ghopal Bhullar

Mr. Bhullar was nominated in writing by Mr. Gerald Siluk, seconded in writing by Mr. Millen Ballard, and accepted his nomination in writing.

The *Rules* provide that any member eligible to nominate or second a nomination may do so in writing prior to the nominations meeting if: such member is unable to attend the nominations meeting in person due to his/her work or vacation schedule, illness, injury, obligation to serve jury duty or fulfill military obligations; or such member lives and works more than thirty-five miles from the relevant nominations meeting site. *Rules*, Article II, § 3 (f).

The *Rules* also permit acceptance in writing by a candidate who is absent from the nominations meeting. *Rules*, Article II, § 3 (h). Mr. Bhullar is not ineligible to run for the position of delegate for the reason that he accepted his nomination in writing.

The Election Officer investigated and determined that Mr. Siluk was working during the time of the nomination meeting and was therefore eligible to nominate Mr. Bhullar in writing under the *Rules*.

However, Mr. Ballard, who seconded the nomination of Mr. Bhullar, informed the Election Officer that he was not prevented from attending the nominations meeting for any of the reasons specified in the *Rules*. He was not at work; by reason of his work schedule, he would not be normally asleep at the time of the nominations meeting. Mr. Ballard told the Election Officer representative that he did not attend the meeting because he preferred to stay home. Thus, it was impermissible for Mr. Ballard to second the candidacy of Mr. Bhullar in writing. Therefore, Mr. Bhullar is not eligible to run for the position of delegate because his candidacy lacks a proper second.

IV. The Propriety of Written Acceptance by Michael McLaughlin

Mr. McLaughlin faxed his acceptance of nomination for the position of delegate to the nominations meeting. The fax was unsigned. However, he signed his name on the slate that was in nomination, and on December 29, 1990, Mr. McLaughlin tendered a signed acceptance. The Election Officer concludes that Mr. McLaughlin

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clearly indicated his intention to accept his nomination both at the time of the meeting and within twenty-four hours following the meeting. The *Rules* permit a candidate to accept his nomination in writing. Thus, Mr. McLaughlin's acceptance is permissible under the *Rules*. This aspect of the Protest is DENIED.

V. The Slate Name "213 Teamsters for Teamsters" does not Contravene the Rules

As a further protest, Mr. McGill contends that the *Rules* prohibit the slate name "213 Teamsters for Teamsters." In fact, the only limitation place on slate names by the *Rules* is that the name shall not indicate incumbency. *Rules*, Article II, § 8 (e). The Election Officer also has determined that slate names which contain obscenities or are too lengthy to appear on the ballot will be prohibited as well.

Since the name "213 Teamsters for Teamsters" does not designate incumbency, is not obscene, and is not too lengthy to appear on the ballot, it is permissible. This aspect of the Protest is DENIED.

V. Conclusion

Candidates George Fennell and Ralph Nielson are ineligible to run for the position of delegate for the reason that they have not timely paid dues for twenty-four consecutive months prior to the nomination.

Candidates Ghopal Bhullar is ineligible to run for delegate because he was not properly seconded. The protest in all respects 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. The parties are reminded that, absent

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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

A handwritten signature in black ink, appearing to read "Michael H. Holland". The signature is fluid and cursive, with the first name "Michael" being the most prominent part.

Michael H. Holland

MHH/MJC/mca/mjv

cc: Frederick B. Lacey, Independent Administrator  
C Neil Reimer, Regional Coordinator

**EXHIBIT A**

**All IBT members whose eligibility to nominate and second is under protest**

**Nominator**

**Alex Wain Ducan  
Thomas McCormick  
Ken Spiers  
Dale Holdaway  
Ralph Nielson  
Les Hogg  
John Reid  
Wilbert Heinrich  
Charlene Cowx  
Gerald Siluk**

**Second**

**Wilbert Heinrich  
Allen Mitchell  
Thomas McCormick  
William Milne  
John Reid  
Alex Wain Ducan  
George Fennell  
Ken Spiers  
Heather Hohn  
Millen Ballard**



Exhibit B

All IBT members whose candidacy for delegate or alternate delegate is under protest

Delegate

Michael (Mickey) McLaughlin

John Reid

Ralph Nielson

George Fennell

Tom Barnes

Thomas McCormick

Ivan Vlahovic

Wilbert Heinrich

Les Hogg

John Marshall

Gophal Bhullar

Alternate Delegate

Ken Shiels

Ken Spiers