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April 2, 1991

**VIA UPS OVERNIGHT**

Anthony Lepore  
16 Greendale Ave  
Cromwell, CT 06416

Thomas Robidoux  
Secretary-Treasurer  
IBT Local Union 671  
9 Signor St  
E Hartford, CT 06108

John J Teehan  
74 Northbrook Rd  
Springfield, MA 01119

Michael J. Veneziano  
247 Newton St.  
Kensington, CT 06037

James E Robidoux  
192 Hillcrest Ave  
Newington, CT 06111

Vincent M Capella  
55 Olmstead St  
E Hartford, CT 06108

Michael Meade  
7 Usher Ave  
Plainville, CT 06062

Kenneth W Hill  
41 Northbrook Ct  
E Hartford, CT 06108

Bruce Winter  
8 Copper Drive  
Enfield, CT 06082

**Re: Election Office Case No. Post18-LU671-ENG**

Gentlemen

Post-election protests were filed pursuant to Article XI of the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("Rules") by Bruce Winter, Michael Veneziano, Anthony Lepore, and Ken Hill, all members of Local 671. (Mr Winter, Mr, Veneziano and Mr Hill were also delegate candidates )

Mr Veneziano contends that during the election count which occurred on January 28, 1991, Local 671 members in good standing, and thus eligible to vote, were declared ineligible and their ballots not counted. Mr Veneziano requests that these eligibility determinations be reversed and the challenged ballots be counted since the counting of these ballots may affect the outcome of the election

Mr. Lepore contends that he was wrongfully declared ineligible to vote. Mr. Lepore claims he is a member in good standing. He states that he pays his dues by checkoff. Thus, if dues have not been paid it is the failure of his employer. Since he was not notified by the Union of any arrearage, he is eligible to vote. Mr. Lepore states that he participated in the nomination process as a nominator and seconder, if eligible to nominate or second, he must be eligible to vote.

Mr. Winter's protest also concerns Mr. Lepore's eligibility. He contends that since Mr. Lepore was ineligible to vote -- as demonstrated by the sustaining of the challenge to his ballot -- he is also ineligible to nominate or second a nomination. Since a delegate candidate was nominated by Mr. Lepore and the nomination of an alternate seconded by him, both candidates were improperly nominated and should not have been permitted on the ballot. Thus, Mr. Winter contends that ineligible candidates were on the ballot requiring a rerun election.

Finally, Mr. Hill complains of the failure of the Local to provide him with a membership list as he requested. Mr. Hill further contends that the incumbent officers of the Local, who were also candidates for delegate, had access to the list and used it for a campaign mailing. Mr. Hill contends that failure to supply him with the membership list constitutes a violation of the *Rules*.

Local 671 held its delegate election by mail ballot. Two delegates and one alternate delegate to the IBT International Convention were to be elected. The ballot count took place on January 28, 1991. The tally of ballots counted was as follows:

For Delegate

Thomas Robidoux	296
James Robidoux	275
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Mike Veneziano	255
John Teehan	202
Ken Hill	96
Vin Capella	59
Mike Meade	56

For Alternate Delegate

Larry Sawyer	299
Lee Dery	157
Bruce Winter	153
John Okinuk	74

The difference in votes between the second and third ranked delegate candidates is twenty votes. The difference between the first and second ranked alternate delegate

candidates is 142 votes. There were 106 ballot challenges sustained by the Regional Coordinator. The challenges were sustained based upon these members failing to meet the good standing requirement based on either failure to pay initiation fee or failure to have dues paid through December, 1990.

**I. The Protest of Mr. Hill.**

Mr. Hill states that he requested a membership list from the Election Officer pursuant to Article VIII, § 2 of the *Rules* and a list was never provided. Mr. Hill also contends that he requested a membership list from Thomas Robidoux, Secretary-Treasurer of Local 671 and a candidate for delegate, and was denied a copy of said list. He alleges that the failure of the Local to provide the membership list was discriminatory since Thomas Robidoux utilized the membership list to send campaign literature to all Local members. Mr. Hill recognizes in his protest that Mr. Robidoux's campaign mailing was made on January 18, 1991 and his protest was not filed until February 3, 1991. However, Mr. Hill claims that the lack of access to the membership list was a continuing violation until the date of the election.

Article VIII, § 2 of the *Rules* does not provide for the dissemination of membership lists to delegate candidates. That article and section concerns providing membership lists to accredited candidates for International Office upon request and upon compliance with the requirements of that section. Mr. Hill is not an accredited candidate for International Office and thus not entitled to receive a membership list from the Election Officer.

No delegate or alternate delegate candidate is entitled to a membership list. However, if any candidate receives such a list, all candidates are entitled to equal treatment. *Rules*, Article VIII, § 2 (a). However, the Election Officer investigation determined that no unequal treatment occurred.

Article VIII, § 6 of the *Rules* requires the Union to distribute literature on a candidate's behalf upon request and upon terms equal available to all candidates. Mr. Robidoux made such a request. The Local provided him with the necessary mailing labels as required by the *Rules*. No membership list was provided.

The Local states that it would have similarly provided all candidates with mailing labels if any other candidate sought to do a campaign mailing. Mr. Hill admits that he at no time requested that the Local provide him with labels to permit him to distribute a campaign mailing. Based on the foregoing, the Election Officer determines that the *Rules* have not been violated. Accordingly, the protest of Mr. Hill is DENIED.

**II. The Protests of Mr. Lepore and Mr. Winter.**

The ballot of Mr. Lepore was challenged and the challenge was sustained based on his not having paid dues through December of 1990, the month prior to the month in which the election took place. Mr. Lepore protests that at the time of the nominations

he requested information as to his eligibility to nominate and/or second the nomination of any candidate and was advised by the Local Union that he was so eligible. Mr. Lepore further contends that the Local Union has never notified him of any dues delinquency.

Mr. Winter complains that Mr. Lepore did in fact nominate and second the nomination of candidates when he was not eligible to do so, having not been a member in good standing as evidenced by the sustained challenge to his ballot. Therefore, the ballot contained candidates improperly nominated, requiring a new election.

A review of the TITAN record for Mr. Lepore reflects that as of the date of the election his dues were paid through November of 1990, the last dues remittance made by his employer, UPS, having been made on January 10, 1991 and applied to the payment of November, 1990 dues. The TITAN record further reflects that the dues arrearage was attributable to the failure of UPS to checkoff and remit dues in May of 1989 and October of 1989. The Election Officer has contacted Mr. Lepore's employer and was advised that Mr. Lepore had earnings in May of 1989 sufficient for the deduction of his dues. Mr. Lepore did not have earnings of October of 1989.

Article X, § 5 (c) of the IBT Constitution provides that a member whose dues are checked off by his employer and who has sufficient earnings in any month from which his employer could have checked off such dues shall not lose his good standing status or voter eligibility based upon the failure of the employer to so deduct and remit. Under Article X, § 5 (c) of the IBT Constitution, the Local Union has an obligation to notify any member of the failure of his employer to deduct and remit the member's dues as a prerequisite to declaring the member in arrearage.

The Election Officer concludes that the one month dues arrearage which occurred in May of 1989 was due to the failure of Mr. Lepore's employer to deduct and remit dues to the Union. Thus, the January 10, 1991 payment made by UPS for Mr. Lepore should properly have paid his dues through December of 1990, making him eligible to vote in the January 28, 1991 election.

For the same reasons, the payment made in December, 1990 should have been credited for November, not October dues. Thus, in December, 1990, Mr. Lepore's dues must be considered to have been paid through November, 1990. Mr. Lepore was eligible to nominate and second the nomination of any candidate at the nominations meeting held in early December of 1990. Accordingly, the protest of Mr. Winter is DENIED and the protest of Mr. Lepore is GRANTED<sup>1</sup>.

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<sup>1</sup>Although Mr. Lepore's single vote would not have affected the election results and thus Mr. Lepore's post-election protest would not normally be considered by the Election Officer, the Election Officer has done so here given the determination on Mr. Veneziano's protest discussed below.

### **III. The Protest of Mr. Veneziano.**

Mr Veneziano protests that challenges to the ballots of eligible voters were improperly sustained. One hundred and six ballot challenges were sustained by the Regional Coordinator. Since the difference in votes between the lowest ranked winning delegate candidate and the highest ranked losing candidate was 20 votes, the number of sustained ballot challenges could affect the outcome of the delegate election and therefore the Election Officer has conducted an investigation of this protest.<sup>2</sup> In addition to Mr. Lepore, the Election Officer has conducted an investigation of the remaining 105 sustained ballot challenges by reviewing the TITAN records of each of the members who cast a challenged ballot and contacting the employers of each of these members to determine if any failure to pay initiation fee or any dues delinquency was caused by employer error.<sup>3</sup> Based upon the Election Officer's investigation, the Election Officer has determined that 45 of the members, plus Mr Lepore, whose ballots were not counted are eligible to vote for the reasons set forth below. The remaining 60 sustained ballot challenges were properly sustained.

#### **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. Thus, to be eligible to vote in the Local 671 delegate election on January 28, 1991, a member must have paid his or her initiation fee prior to that date.

Forty-nine ballots challenges were sustained on the basis of unpaid initiation fees. The Election Officer has determined that all of these members had their dues deducted via dues checkoff by their employer. The employers involved all checked off initiation fees from earnings on an installment basis. Except for the four members discussed below, all employed by UPS, the members whose ballots were challenged and the challenges sustained on the basis that they had not paid their initiation fees had not worked a sufficient period of time or had sufficient earnings to satisfy the full payment of initiation fees due.

For the four members set forth below, UPS verified that the failure to deduct or remit the full amount of the initiation fee due was an employer error. These members

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<sup>2</sup>There is no effect on the alternate delegate election since 142 votes separate the first and second ranked alternate candidates.

<sup>3</sup>The Regional Coordinator reviewed the TITAN records available at the time of the election and on the basis of those records sustained the disputed challenges. As discussed in the determination, any sustained challenges reversed the Election Officer were reversed as a result of information received from employers concerning delinquencies in months prior to the month of the election.

had sufficient earnings and had worked a sufficient period to have had the total initiation fee deducted and remitted to the Local Union prior to January 28, 1991. Thus, their good standing is not adversely affected due to the failure of UPS to properly deduct and remit their initiation fees<sup>4</sup> Article X, § 5 (c) of the IBT Constitution. The Election Officer determines that the following members are eligible to vote in the Local 671 delegate election:

Antonette Burt	355-54-5608
Gary Carl	040-56-9573
Mark Madison	042-62-1923
Michael Slfer	043-48-7600

## B. Ballots Challenged on the Basis of Delinquent Dues

### 1. UPS

The following members, all on checkoff dues payments by their employer, UPS, showed a variety of irregularities in their TITAN records which led to arrearages and the subsequent challenge of their ballots. 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 sufficient to have permitted the check-off and remittance of the full amount of their dues. Therefore, in accordance with the IBT Constitution, Article X, § 5 (c), the good standing of these members may not be adversely affected by their employer's failure to remit dues in months for which they had earnings since the Union did not notify them by personal letter of such arrearages. Accordingly, the members listed below are eligible to vote.

John Anuskoff	049-42-0922	Darryll Lattanzio	041-58-0695
Stephen Battista	047-54-9000	Theres Leonowicz	042-60-4857
Roy Beverly	044-56-6615	John Loura	049-48-6308
William Clark	040-42-7089	Bruce Macbryde	044-56-2106
Jose DeJesus	047-52-9412	Jerald Martin	049-62-4372
Philip Donahue	045-30-0405	Richard Maura	040-34-2683
Steven Eckert	045-38-8228	Rafael Munoz, Jr.	042-68-3147
James Erdmann	049-66-9935	Richard Murphy	047-36-5051
Lee Gustafson	045-42-4304	Stephen Nelson	041-52-3443
John Hajdsz, Jr	046-34-3982	Raymond Palka	046-42-4664
Jeffry Hanington	044-46-7280	Kerry Pasaro	115-40-2808
Movell Henriques	041-84-6943	Carmin Peluso	046-58-1944
Steven Holt	048-54-2740	Dean Plenzio	048-40-3650
Earl Jackson	041-46-4284	Michael Raimondi	048-52-2601
Robert Jacobik	040-24-3067	Reginald Rivera	583-23-0009

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<sup>4</sup>The Election Officer also reviewed the TITAN records for these members to insure that each of them was also current in their dues, having paid their dues through December of 1990.

Frank Senerth	044-52-2912	Joseph Ventura	047-52-9108
Eugene Strom	049-60-7204	Thomas Williams	046-58-1353
Maurice Therrien	044-62-8381	Paul Zurek	048-48-6896

A review of the TITAN records for members Michael Beaulieu, Sebastian Carbone, and Kevin White showed delinquencies of two months in the payment of their dues to the Local. Their records reflected that, as of the election date, their dues were paid only through November, 1990.

The investigation of the Election Officer determined that the arrearages arose from one month in which the members in question did not work or have earnings and at least one month in which they did work and have earnings from which dues could have been deducted. Members are responsible for paying their own dues for months in which they have no earnings. However, in accordance with IBT Constitution, Article X, § 5 (c), members may not be held responsible for their employer's failure to remit dues for months in which they did have earnings absent notification from the Union. Thus, although the above named members are one month in arrears in their dues, as of the date of the election, they had paid their dues through December of 1990 and therefore were eligible to vote. Accordingly, Michael Beaulieu, 042-50-1101, Sebastian Carbone, 043-54-7603, and Kevin White, 044-60-4309, are determined to be eligible to vote.

## 2. Employees of Other Companies

Richard Roberts, 026-42-2454, is a member employed by Airborne and pays his dues via dues checkoff through that employer. His TITAN record reflects that as of the date of the election, his dues were paid through October 1990 thereby making him ineligible to vote. His TITAN record further reflects, however, payment of checkoff dues in each month from April 1989 through January of 1991.

His dues are reflected as being current until October of 1990 at which time there is a correction debit entry made to his dues payment record. As a result of such entry, his next checkoff payment remittance payment was credited for September, 1990 dues, as opposed to November, 1990 dues. The Local has advised that the correction to the TITAN record creating the arrearage was due to the failure of Mr Roberts' employer to remit the correct amount of dues after the date dues were increased by the Local. The employer has confirmed that Mr Roberts had earnings in each month sufficient to pay his full dues. In accordance with Article X, § 5 (c) of the IBT Constitution, the failure of the employer to properly remit dues pursuant to a valid dues checkoff agreement does not adversely affect the good standing of a member absent notification by the Local. Thus, Mr. Roberts is eligible to vote in the delegate election.

Charles Saunders, 049-46-2538, is a member employed by Hallmark Mechanical Corp and pays his dues via dues checkoff through his employer. Hallmark Mechanical Corp became Mr Saunders' employer on May 1, 1990 when it purchased Christie Trucking, Mr Saunders' previous employer. The TITAN record for Mr. Saunders reflects arrearages for months both before and after May of 1990. The Election Officer



Anthony Lepore  
Page 9

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  
Elizabeth A Rodgers, Regional Coordinator  
Hank Murray, Adjunct Regional Coordinator