



OFFICE OF THE ELECTION OFFICER
% INTERNATIONAL BROTHERHOOD OF TEAMSTERS
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Washington, DC 20001

Michael H. Holland
Election Officer

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April 3, 1991

VIA UPS OVERNIGHT

Kathi Dixon
2436 Roble
Modesto, CA 95354

Ron Ashlock
Secretary-Treasurer
IBT Local Union 748
1222 "I" Street
Modesto, CA 95354

Re: Election Office Case No. Post30-LU748-CCV

Gentlemen:

A post-election protest was filed pursuant to the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("Rules"). In her protest, Kathi Dixon, a candidate for 1991 IBT International Union Convention delegate from Local 748, seeks to have twenty-two ballots, which were not counted by the Election Officer representatives, counted

Local 748 elected eight delegates to the 1991 IBT International Convention. The election was a mail ballot election, the ballots were counted on February 20, 1991. The eighth ranked winning candidate, William Deal, had 814 votes. Kathi Dixon, the ninth ranked candidate, had 812 votes. Twenty-two votes were not counted.

Ms. Dixon admits that the twenty-two uncounted ballots were not enclosed in secret ballot envelopes when received. She contends, however, that the ballots could have been removed from the outer envelope and commingled with ballots properly returned, all at a sufficient distance to prevent the secrecy of the vote from being undermined. It has been the consistent policy of the Election Officer to find as void, all ballots not contained in a secret ballot envelope. The secret ballot envelope functions to protect the secrecy of the ballot, crucial to the fair election process. Thus, the use of the unmarked secret ballot envelope is required, not optional, because that envelope represents the surest method of maintaining the secrecy of the ballot. *Rules*, Article XII, § 3 (c)(4) (the member "shall place the envelope in the secret ballot envelope (without making a mark on that envelope) ")

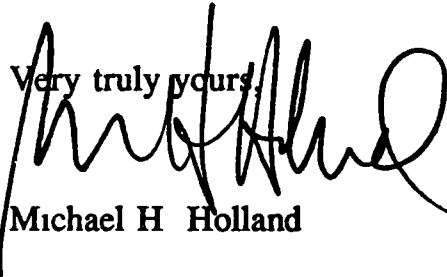
The removal of the ballots from the outer envelopes and commingling them with ballots properly received in a secret ballot envelope may not initially appear to permit

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voter identification but, absent a secret ballot envelope, there is no guarantee that the ballot will remain unconnected with the return envelope containing the member's name. Further, to do as the protestor here suggests would prevent any candidate or his/her observer from being able to view the entirety of the counting process as guaranteed by the *Rules*. See *Rules*, Article IX, § 7

For these reasons, the Election Officer has consistently refused to count any ballot returned without being enclosed in the secret ballot envelope. His position has previously been approved by the Independent Administrator. See Lichtman et al. and IBT Local Union No. 769, 91-Elec App -109 (SA) On this basis, this protest will be 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
Donald E Twohey, Regional Coordinator