

OFFICE OF THE ELECTION OFFICER  
% INTERNATIONAL BROTHERHOOD OF TEAMSTERS  
25 Louisiana Avenue, NW  
Washington, DC 20001

Michael H. Holland  
Election Officer

(202) 624-8778  
1-800-828-6496  
Fax (202) 624-8792

April 16, 1991

**VIA UPS OVERNIGHT**

Chet Hejduk  
16680 Libby Rd  
Maple Heights, OH 44137

Joe Pierani  
Secretary-Treasurer  
Teamsters Local 407  
3150 Chester Ave.  
Cleveland, OH 44114

Sam Tracarichi  
7946 N Gannett  
Sagamore Hills, OH 44067

Joe Pierani  
67 Claremont Dr  
Brunswick, OH 44212

Bob Wenger  
960 Bryn Mawr  
Wickliff, OH 44092

Jim Davis  
6400 Center St , #66  
Mentor, OH 44060

Kenneth Ramser  
11530 Gross Dr  
Parma, OH 44130

Philip Elrod  
5915 Brookside Rd  
Independence, OH 44131

Richard Brown  
6745 Anthony La  
Parma Hts , OH 44130

Marie Romaniak  
4575 Ocala Dr.  
Parma, OH 44134

Douglas Elrod  
2923 Hearthstone  
Parma, OH 44134

William Mathews  
3655 Lindholm Rd.  
Shaker Hts., OH 44120

Re: Election Office Case No. Post-49-LU407-CLE

Gentlemen

Two post-election protests were filed by Chester Hejduk and Kenneth Ramser pursuant to Article XI of the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("Rules"). Both Mr. Hejduk and Mr. Ramser are members of Local 407, and were candidates in Local 407's delegate election. Their protests have been consolidated because both of them involve allegations of ballot or

counting irregularities In his protest, Mr Hejduk asserts that Local 407's mail ballots were tampered with while being held at the main Post Office facility prior to the mail ballot count Mr Ramser alleges that the vote counting machines provided by the Election Officer malfunctioned and that such malfunctioning caused the machine to produce an inaccurate count As a remedy, Mr Ramser requests that the Election Officer recount the ballots to verify that the final tally results generated by the voting machines are accurate Each of the protestors' claims will be reviewed below in separately numbered sections

In Local 407's delegate election, two slates and an independent candidate ran for six delegate positions. A total of thirteen delegates were on the ballot. ~~The margin between the elected delegate candidate with the lowest number of votes (Jim Davis, 936 votes), and the candidate for delegate receiving the next highest number of votes (Marie A. Romaniak, 347 votes) was 589 votes.~~ Mr Hejduk ran as an independent candidate on the ballot and received 284 votes Mr Ramser ran as a member of the "Delegation for Constitutional Change" slate and received 295 votes

#### I. Allegations of Ballot Tampering at the United States Post Office.

Joyce Goldstein, the Election Officer Regional Coordinator, conducted an investigation into Mr Hejduk's allegation that Local 407's mail ballots had been tampered with while they were being held by the main Post Office on Orange Avenue in Cleveland, Ohio The investigation disclosed that Mr Hejduk's allegations are based solely on the fact that in 1987 Mr Sam Theodus, who is a member of Local 407 and was a candidate in Local 407's delegate election, allegedly stated that he had evidence that certain persons had switched mailbags at the Post Office in Local 407's officer election<sup>1</sup> Mr Hejduk has no evidence that any person tampered with the ballots at the Post Office for Local 407's election Rather, Mr Hedjuk simply states that because Theodus was defeated in the Local Union officer election and, at that time alleged that the Post Office tampered with the ballots, he should be required to explain whether he tampered with ballots in this election, in which he won a delegate position

Pursuant to her investigation, Ms. Goldstein contacted the manager of the main Post Office at the Cleveland, Ohio facility The manager verified that the ballots had been stored in a secure fashion in accordance with standard procedures followed by the United States Post Office Furthermore, when Election Officer Adjunct Staff Michael Malone went to pick up the ballots from the Post Office on the day of the count, anything that would even remotely suggest that the ballots had been tampered with Finally, Ms Goldstein and Mr. Malone carefully checked all the return ballot envelopes and determined that the envelopes themselves had not been tampered with. The evidence did not disclose a single fact which would support Mr Hejduk's allegations Accordingly, the protest is DENIED

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<sup>1</sup>The Election Officer notes that assuming arguendo that Mr. Theodus made such statements, Mr. Theodus' allegations were not investigated and appear to be unsubstantiated.

## **II Allegations of Voting Machine Malfunctions**

In Mr Ramser's protest, he alleges that the voting machines provided by the Election Officer malfunctioned on the day of the ballot count and that such malfunctioning could have affected the results of the election Mr Ramser requests that the Election Officer Representative conduct a recount of the ballots to insure that the manual tally results are consistent with the results derived from the machine voting

The counting of ballots in Local 407 was conducted by Regional Coordinator Joyce Goldstein and Adjunct Coordinator Michael Malone Ms Goldstein and Mr Malone directly monitored the functioning of the voting machines during the entire ballot count Although the machines experienced a few minor technical problems involving the ballot paper feed and the computer printout tape, there is no evidence to indicate that the electronic calculations or the memory computer packs were affected in any manner

~~The electronic voting machine utilized to tabulate ballots in the delegate election for Local 407 does not record a vote on any rejected ballot. Only when the machine accepts the ballot as a vote recorded. The Election Officer investigation discovered no discrepancies between the voted ballots and the final tally of votes as the result of the voting machine or otherwise.~~

All that said, Election Officer is cognizant, however, that the albeit minor problems encountered at the count may have given the appearance of an improper count being recorded. For this reason, to insure all candidates and observers that the ballot count was and is proper, the Election Officer Regional Coordinator will recount the ballots cast for the delegate and alternate delegate election with respect to Local 407. Accordingly, the Regional Coordinator, Joyce Goldstein, and/or Election Officer representing, operating or directing, will conduct a recount of Local 407's ballots<sup>2</sup> Ms Goldstein will notify all candidates in writing of the time, place and location of the recount All candidates have the right to be present at the recount and/or to designate observers to be present at the recount Thus, the protest has been RESOLVED

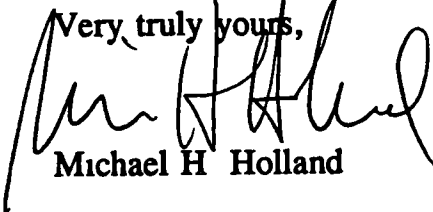
If any interested party is not satisfied with this determination, they may request a hearing before the Independent Administrator within twenty-four (24) hours of their receipt of this letter The parties are reminded that, absent extraordinary circumstances, no party may rely upon evidence that was not 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,

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<sup>2</sup>This recount shall be of the ballots previously found to have been cast by eligible voters There shall be no further or different eligibility determinations

Chester Hejduk  
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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  
Joyce Goldstein, Regional Coordinator

RECEIVED  
APR 2 1991  
INDEPENDENT

A07/CLE

MHH  
BJH  
JS  
GOLDSTEIN

IN RE:

CHESTER D. HEJDUK

and

IBT LOCAL UNION NO. 407

91 - Elec. App. - 136 (SA)

DECISION OF THE  
INDEPENDENT  
ADMINISTRATOR

This matter arises out of an appeal from a April 16, 1991, Decision of the Election Officer in Case No. Post-49-LU407-CLE. A hearing was held before me by way of telephone conference on April 25, 1991, at which the following persons were heard: the complainant, Chet Hejduk; Kenneth Ramser, a Local member on behalf of Mr. Hejduk; Local 407 Secretary-Treasurer Joseph Pierani; John Sullivan on behalf of the Election Officer; and Mike Malone, the Adjunct Regional Coordinator.

The Election Officer's April 16 Decision involves two protests. One, which was filed by Mr. Ramser, concerned the accuracy of the electronic voting machine count. Mr. Ramser requested that the Election Officer conduct a recount of the ballots to insure that the manually-counted vote is consistent with the results obtained by electronic machine count. Although the Election Officer did not find any defect with the electronic count, he decided to conduct a recount in an effort to insure the


integrity of the election. Thus, Mr. Ramser's protest was resolved and is not before me on this appeal.

What is before me on this appeal is the protest of Mr. Hejduk. Mr. Hejduk alleges that Local 407's mail ballots had been tampered with while they were being held by the main post office in Cleveland, Ohio. Mr. Hejduk's allegations are based solely on the fact that in 1987 allegations were made that certain persons had switched mail bags containing ballots at the same post office during Local 407's officer election. In 1987, the Department of Labor investigated those allegations, but took no action. Mr. Hejduk offered no other evidence to further substantiate his concerns.

Notwithstanding the fact that Mr. Hejduk's allegation appears meritless on its face, the Election Officer took steps to satisfy himself that the mail bags containing the ballots were not tampered with. The Adjunct Regional Coordinator, Mr. Malone, personally retrieved the mail bags from the post office and found nothing at the post office which would suggest that the bags had been tampered with or switched. In addition, the Regional Coordinator, Joyce Goldstein, contacted the manager of the post office in Cleveland and verified that the ballots had been stored in a secure fashion in accordance with standard procedures followed by the United States Post Office. Finally, both Ms. Goldstein and Mr. Malone carefully checked all the returned ballot envelopes and determined that the envelopes themselves had not been tampered with.

In short, there is not a single fact which would support the allegation that the mail bags had been tampered with or switched.

Accordingly, the Election Officer's denial of Mr. Hejduk's protest is affirmed.



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Independent Administrator  
Frederick B. Lacey  
By: Stuart Alderoty, Designee

Dated: April 29, 1991