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Election Officer

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February 15, 1991

VIA UPS OVERNIGHT

Sandra J May
6669 Concourse Dr.
Columbus, OH 43229

Harold Speakman
President
IBT Local Union 284
555 East Rich Street
Columbus, OH 43215

Harold L Powell
4960 Headleys Mill Road
Pataskala, OH 43062

Re: Election Office Case Nos. P-407-LU284-CLE
P-470-LU284-CLE

Gentlemen:

Pre-election protests have been timely filed pursuant to Article XI of the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("*Rules*"). On January 24, 1991, Sandra J. May protested that Harold Speakman, President of Local Union 284, and Brian Rice, Secretary-Treasurer of the Local Union, caused union time and union facilities to be used in support of the campaign of the Speakman-Rice slate, whose members are seeking election as delegates and alternate delegates to the 1991 IBT International Convention. The protest raises possible violations of Article VIII, Section 10(c) and/or Article X, Sections 1(b)(1) & (3) of the Rules For the IBT International Union Delegate and Officer Election. Also, on January 24, 1991, Mr. Harold Powell, a member and delegate candidate in Local 284, filed a protest involving the same set of obligations and in support of Ms. May, who is a delegate candidate on the same slate as Mr Powell.

I The Investigation.

In the course of an investigation conducted by the Regional Coordinator and by a representative of the Election Officer through a series of telephone calls, the adversarial parties gave vastly disparate and irreconcilable versions of what transpired. The persons interviewed during multiple telephone calls and/or personal interviews were

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the three principals -- Sandra May, the protester, Harold Speakman, the Local Union President, and Brian Rice, the Local Union Secretary-Treasurer.

The following documents were received and considered in the investigation:

1. Invoice of Silk Screen Special T's to Teamster Local 284 for 1000 hats at \$1.90 per unit. (Submitted with protest.)
2. Severance paycheck payable to May dated January 18, 1991 in gross sum of \$23,976 and net sum of \$16,147.84 and corresponding check stub. (Submitted by the attorney for Speakman.)
3. Resignation of Sandy May dated January 18, 1991. (Submitted by the attorney for Speakman)
4. Vacation paycheck payable to May dated January 18, 1991, in gross sum of \$1,998 and net sum of \$1,505 20 and corresponding check stub. (Submitted by the attorney for Speakman)
5. Undated and unsigned documents related to Severance Plan (Submitted by the attorney for Speakman)
6. Affidavits dated February 4, 1991 from Harold Speakman, Brian Rice, Gary Haskins and Dave Liptrap. (Submitted by the attorney for Speakman.)

The respective statements and other evidence is summarized below.

a. Version of Sandra May.

Sandra May was hired by Local Union 284 as a secretary-bookkeeper 12 years ago. She worked in that capacity for a single union administration during her first 11 years of employment. Then, in October, 1989, the then-incumbent officers were defeated by the Speakman-Rice slate, which came into office in January of 1990. May continued to work in her position until the events of January 18, 1991, related below. At the time of her termination, she was earning \$660 a week

There was conflict between May and the new team of officers. According to her, however, she was never told by the officers that these problems in any way related to her work conduct or performance.

May stated that, in her opinion, based on what she was told, the main factor precipitating her problems was her failure to invite the new officers to her daughter's wedding in April of 1990. She had invited those officers and Union employees who were holdovers from the previous administration. According to May, Speakman, in

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particular, took great umbrage at the perceived slight. The following month, he told her that he and Rice had discussed raising the other "two girls" and reducing her salary to cover the increase. The other two secretaries did receive an increase and May did not.

May stated that one other manifestation of Speakman's discontent was her relationship with Harold Powell, a steward at Big Bear whom she had known for many years. Powell had been an adversary of Speakman's in the 1989 Local Union officer election in which Speakman was elected. According to May, Speakman repeatedly complained to her that she was spending too much of her working time talking to Powell. She maintains that Speakman was "paranoid" about potential political rivals and greatly exaggerated the actual time she spent talking to Powell.

May denied that she had ever been accused of insubordination by Rice or Speakman. In response to a question, the International auditor of the union books, May stated that he had directed her to change the book-keeping system. She stated that she would have complied, but that Speakman and Rice countermanded the direction and instructed her to ignore the auditor and just do what she had to do to get by.

According to May, prior to the incident involving the hats (discussed below), she was neither asked to nor did she perform work of a political nature for Speakman or Rice or any of their supporters either on or off Union time.

May has stated that, during the first two weeks in January, 1991, Speakman and Rice discussed with her the matter of obtaining their campaign materials for the forthcoming election of 1991 IBT International Convention delegates. May was absolutely certain that all of these discussions were during her work time. According to her, in the course of these discussions, Speakman decided to purchase 1000 black hats with gold print reading: "Vote Speakman-Rice Slate." She claims that she was instructed by Rice and Speakman to place the order. She states that she complied with this instruction on union time, calling Silk Screen Special-T's, Inc. in Thornville, Ohio on several occasions. The purchase order is signed and dated by May on January 8, 1991.

The delivery man arrived with the hats on Friday morning, January 18, 1991. May asked Speakman where he wanted the hats to be stored. He said in the storage room in the main office. The delivery man placed all 8 boxes in the storage room.

According to May, Rice prepared and paid the man with a check, drawn on the Speakman/Rice campaign account in the credit union. She stated she was not personally involved in the preparation of this check.

May stated that at 2 30 P M. that same afternoon, Rice called her into the office and a discussion ensued. Gary Haskins, the Union Vice-President was present and acting "as Rice's witness." Rice stated to her that it was a time for a parting of the ways. She asked why. He responded that it was for the betterment of the Union. He

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said that on Monday, the Executive Board had voted to terminate her. Rice then advised her that she could sign a pre-prepared paper, which he had in his hands and receive severance pay, otherwise, she would be discharged without severance pay. (The severance pay to which she was entitled is in excess of the sum of \$23,000.) Confronted with that choice, May opted to resign. She signed the typewritten paper which was addressed to Speakman and which read: "This letter is to advise you that I, Sandy May, hereby resign from my position as Bookkeeper/Secretary for Teamsters Local Union No. 284, effective this date." May stated that she signed the paper because she did not want to be discharged and lose her severance pay.

On the following day, Saturday, she communicated with Harold Powell and it was agreed that she would run for delegate on his slate.

b Version of Harold Speakman and Brian Rice.

Speakman stated that May resigned and was not terminated. He agreed that there were ongoing difficulties with May but attributes them to her unrelenting insubordination. According to him, she constantly refused to do what she was told by the officers. As an example of her objectionable conduct, he stated that, when the International auditor instructed him to change the method of bookkeeping, he directed her to make the change and she refused to comply with his orders. Rice added that, contrary to their instructions, May would insist upon referring to their "African-American" members as "stupid niggers" and they could not get her to stop. Speakman and Rice also discussed May's refusal to call the building maintenance workers to replace a torn American flag outside the building, which had attracted local news media attention.

During his first telephone statement, Speakman stated that, early in January, 1991, he, his officers and business agents, were in his office talking about their forthcoming campaign and about the possibility of purchasing campaign hats and their cost. According to Speakman, an agreement was reached that no campaign hats or other materials were wanted at this time and the entire matter would be deferred until after nominations.

During a subsequent call, he was asked what time of day this meeting took place. He then stated that such meeting was after business hours. Additional questions were propounded about the details of this meeting. He was asked how long this meeting took and replied that he didn't know. He was asked who was present, at first he declined to answer, but then provided the names of the five other officers and business agents present -- Secretary-Treasurer Rice, Vice-President Haskins, and three business agents

In his written affidavit subsequently furnished, Speakman attested that only Rice, Haskins, Price and Liptrap were at the meeting. He added that the meeting occurred "a little after 5 00 p.m. and after the office had been closed and the telephone recording machine had been put into service" The affidavits of Rice, Haskins and Liptrap

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corroborated Speakman's affidavit as to when the meeting occurred in Speakman's office and who attended

During this meeting, at which the possibility of a purchase of campaign hats was being discussed, May appeared, according to Speakman, and without invitation entered the room, joined the conversation and volunteered to get the hats at a good price of \$1.90 per hat. According to Speakman, he responded by explaining to her that the election rules did not permit the hats to be ordered from the union hall on union time. He then instructed her not to place the order until he told her that a firm decision had been made to purchase the hats and then to personally place the order from her home, have them delivered to his home, and he would later reimburse her for the cost. The affidavits of the four Local Union officials all contain this version in virtually identical terms.

Rice stated during a telephone communication with the representative of the Election Officer that, during this meeting when the hats were being discussed, May had her coat on, she peeked her head into the office to enter the conversation. According to him, she offered to obtain the hats "real cheap" Speakman told her not to order them at this time and that they couldn't be ordered from or delivered to the union office. Speakman said that the hats would have to be received at his house or hers. He further said that they would have to pay for the hats out of their own pocket

According to Rice, it was when the delivery man unexpectedly appeared on the morning of January 18 with the hat delivery that he first learned that they had been ordered. He stated that Speakman became upset about the delivery of the unordered hats. Rice and Speakman talked and agreed that they had not authorized the purchase. Rather than sending the man away and refusing to accept the order, however, they accepted the hats. Speakman agreed that the hats were placed in the storage room of the union hall.

According to Speakman's statement to the Election Officer representative over the telephone, at Speakman's request May made out a check from the campaign fund account, he signed it and she paid the delivery man. Speakman agreed, during this conversation, to produce the paid check from the campaign fund account. However, it was not produced. The affidavits of Speakman and Rice stated, however, that no check was issued. The campaign account lacked sufficient funds to pay the invoice, and Speakman took money out of his own pocket because the delivery was C.O.D.

During his initial conversation with the Election Officer representative, Rice stated that the hats were kept in the union hall for 6 days, he eventually cleaned out an area in the garage at his home and then brought the hats to his home. In a subsequent conversation, Rice volunteered that, upon thinking the matter over and talking about it to his wife, he recalled that the hats were only kept in the hall until Sunday, when he brought them home. Therefore, he stated, the hats were only stored in the union hall for 1 1/4 days. In Speakman's affidavit, however, he stated that, the following day, January 19, 1991, he left for Florida and was gone during the week of January 20,

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1991. He added that "Upon my return, arrangements were made to remove the hats from the Union Hall "

That same Friday afternoon, according to Rice, he called May into his office with the intention of talking to her about all of the problems caused by May's insubordination since he had assumed office. According to Rice, he had no intention of disciplining her. He began to discuss prior incidents of insubordination with her. He did not raise the question of her buying the hats without authorization. He discussed her leaving early and coming to work late and her lack of respect to African-American members. According to Rice, during this conversation, she suddenly said that she had heard enough and that she wanted to resign. A written resignation was prepared by one of the other secretaries at Rice's request, she signed it and she left the hall at about 1:30 p.m. According to Rice, the question of her severance pay did not come up at all during this conversation. He added that she was contractually entitled to the severance pay under the terms of the Local Union pension plan.

II Findings.

a. The Campaigning Activities.

Whether or not May was directed to purchase the campaign hats, it is clear that she did so and undisputed that the work involved in so doing occurred during paid work time. The invoice from Silk Screen Special T's lists the Local Union's phone number with respect to the order.

The Speakman-Rice campaign derived benefit from the work in performed by May in perfecting the purchase. The hats were delivered to the Local; the purchase order lists the Local Union phone number.

Speakman and Rice accepted the delivery of the campaign hats. By accepting delivery, whether they authorized the purchase or not, they accepted the benefits of the work performed by May on work time and paid for by the Local Union.

I further find that the meeting with the Union officers, during which May first entered the discussion of purchasing the hats, occurred during Union time and not after hours. Initially, Mr. Speakman did not even suggest that the meeting did not occur during work time. It was not until Mr. Speakman's second discussion with the Election Officer that the issue became disputed. There was no reason for May, uninvited, to enter such a discussion after hours.

I find that the hats were maintained in the Union Hall 6 days and not 1 1/4 days. I credit Rice's original statement and place no credence on his later contradictory statement. Speakman, in his affidavit, directly contradicts Rice on the point. In this regard, I deem it significant that Speakman, when learning that the hats had arrived, accepted delivery of the hats and directed that they be transported to the storage room.

By ordering them sent to the storeroom, he suggested an intent that they be kept in the Union building for a while.

b. The Discharge.

I do not find that the termination of May's employment was caused by her engaging, or refusing to engage, in campaign activities or support with respect to 1991 IBT International Union Delegate and Officer elections. First, I do not believe that May was discharged constructively or otherwise. Moreover, May herself stated that she believed that her termination was caused not by political activities but by her failure to invite Local Union officers and/or employees to her daughter's wedding.

III. Findings and Conclusions.

Based upon the foregoing, I find that the Local Union did not discharge May for her participation, or lack of participation in any activities or events governed by the Consent Order or the *Rules*. The Union did not violated the *Rules* in the termination of her employment Accordingly, the protest with respect to her discharge is DENIED

I find, however, that the Speakman-Rice slate has violated the Article VIII, Section 10(c), and Article X, Section 1(b)(1) and (3) of the Rules in the following particulars:

- (i) Holding a meeting during union time on or about January 8, 1991, in the Union Office between the three officers and three business agents of Local Union 284 for the purpose of campaign planning;
- (ii) For six days, commencing the morning of January 18, 1991, storing eight boxes of campaign hats in the storage area of the Union Hall.

IV. Remedies.

The Speakman-Rice slate, within three days following receipt of this letter, shall make reimbursement to Local Union 284 in the following amounts:

- (a) One hour pay for each of the three business agents and three officers of Local Union 284;
- (b) One hour pay for Sandra May in the sum of \$16 50;
- (c) Rent for storage space in the sum of \$50 00.

Within 10 days of receipt of this letter, Harold Speakman and Brian Rice shall file an affidavit of compliance with all terms hereof with the Election Officer.

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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,

A handwritten signature in black ink, appearing to read "Michael H. Honand". The signature is written in a cursive, flowing style.

Michael H Honand

MHH/mca

cc: Frederick B. Lacey, Independent Administrator
Joyce Goldstein, Regional Coordinator

IN RE: : 91 - Elec. App. - 81 (SA)
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: :
SANDRA J. MAY and : :
HAROLD L. POWELL, : :
: :
Complainants, : :
: :
and : :
: :
HAROLD SPEAKMAN, President : :
IBT LOCAL UNION NO. 284, : :
: :
Respondents. : :

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DECISION OF THE
INDEPENDENT ADMINISTRATOR

This matter arises out of an appeal from a February 15, 1991, decision of the Election Officer in Case No. P-407-LU284-CLE. A hearing was held before me by way of teleconference on February 27, 1991, at which the following persons were heard: John J. Sullivan, on behalf of the Election Officer; Joyce Goldstein, the Regional Coordinator; Sandra J. May and Harold Powell, the complainants; Harold Speakman, President of Local 284; and Brian Rice, Secretary-Treasurer of the Local.

Ms. May, an employee of Local 284 alleges that the officers of the Local including Messrs. Speakman and Rice, met during business hours in early January to discuss activities related to their campaign for delegate positions to the 1991 IBT International Convention, including discussions relating to the purchase of imprinted hats in support of the Speakman/Rice slate. Ms. May

further contends that the officers devoted the Local's resources to campaign activities on behalf of the Speakman/Rice slate by: (a) directing the use of her services during business hours to order the imprinted hats; (b) using the Local's phone to order the hats long distance; and (c) using the vault in the Union office to store the hats once they were delivered to the office.

Harold L. Powell, a shop steward for Local 284 and a candidate for delegate opposing the Speakman/Rice slate, filed his own protest, making the same allegations, based primarily on information from Ms. May and his own belief.

It is settled that if the Local's officers expended Union time or resources -- including their own time, Ms. May's time, the Local's phone, or the storage facilities of the Union office -- they violated the Rules For The IBT International Union Delegate And Office Election (the "Election Rules") which prohibit the use of Union funds, facilities or personnel to assist in campaigns. See Election Rules, Article VIII, Section 10(c); Article X, Section 1(b)(1) and (3).

Resolution of this matter turns on credibility determinations as Ms. May's version of events directly contradicts the version advanced by Messrs. Speakman and Rice. For example, while Messrs. Speakman and Rice admit to conducting a meeting in the Union's office in early January to discuss campaign issues (including the hats), they contend that the meeting took place after the close of

business. Ms. May says the meeting took place sometime after 2:00 p.m., but before 5:00 p.m.

On another even more basic issue, Messrs. Speakman and Rice deny that Ms. May was ever given permission to order the hats. Ms. May, on the other hand, clearly states that she was given permission and discussed the details of the order (color, wording, quantity) with Mr. Speakman on several occasions.

After conducting an investigation, the Election Officer credited Ms. May's version of events, given that her version was the most consistent; and the Election Officer found the version of facts offered by the Local Union officers inconsistent and, in at least one respect, improbable, and rejected their explanation. I cannot say that such a determination is clearly erroneous or an abuse of discretion and thus I accept it, except as hereafter set forth.

Upon reviewing the details of the Election Officer's investigations as embodied in his decision of February 15, 1991, and after personally questioning Ms. May, Mr. Speakman and Mr. Rice, I too credit Ms. May's version of events,¹ with the

¹ I am not unmindful that Ms. May "resigned" from her job on January 18, 1991; that she filed a protest with the Election Officer regarding that resignation arguing that it was in fact a retaliatory discharge (which protest was denied and not appealed); and that the day after she left her employment, Ms. May joined Mr. Powell's slate as a delegate candidate. Notwithstanding these factors, Ms. May's version of events is the most consistent, probable and credible.

exception of her recollection of what time of day the early January meeting took place.

Mr. Speakman and Mr. Rice both stated at the hearing that the meeting took place just after 5:00 p.m. This is consistent with their earlier statements to the Election Officer. This was confirmed by two additional affidavits from persons attending the meeting. These affidavits were supplied to the Election Officer. Ms. May, on the other hand, while stating that the meeting took place before 5:00 p.m., was uncertain as to what time the meeting began, noting that it was sometime in the afternoon "after the business agents returned" to the office. She states that she was present in the office during at least part of the meeting. Ms. May's working day ends at 5:00 p.m. Thus, it is probable that she would still be in the office shortly after 5:00 p.m. when the meeting began. Given the corroborating statements of four of the individuals that attended the meeting and Ms. May's uncertainty regards the timing of the meeting, I find that the meeting took place after 5:00 p.m., i.e., after the close of business.

As for the other matters, it is not disputed that Ms. May ordered the hats during working hours and used the Local's phone to place calls to the supplier. I reject the contention that Ms. May acted without authority in placing the order. This contention is especially implausible when one considers Mr. Speakman's admission that when the hats were delivered to the office, he accepted them and paid for them. Mr. Speakman explains this by suggesting that

his slate "needed the hats anyway." If I were to accept this explanation, it would belie Mr. Speakman's and Mr. Rice's statement that at the meeting in early January they decided not to order hats as it was too early in the campaign and they did not even know if they would have viable opposition.

Moreover, the order for the hats was quite specific in the description of quality, color, and lettering. Mr. Speakman and Mr. Rice explain this by stating that this information was written on a sheet of paper on Mr. Speakman's desk and it is suggested that Ms. May removed the paper from his desk. Again, this is inconsistent with the representation that a decision was made not to order hats. Why would a detailed description of the hats be prepared if none were to be ordered?

The Local Union officers also gave inconsistent statements to the Election Officer as to the length of time the hats were stored at the office. As Ms. May's last day on the job was the same day the hats were delivered, she could shed no light on this issue. Mr. Rice originally stated that the hats were stored in the Union office for six days. Later statements by Mr. Rice and others suggested that the hats remained for only 1½ days. After reviewing the details of the Election Officer's investigation, I too credit Mr. Rice's original statement.

Accordingly, I affirm the Election Officer's directive that the Speakman-Rice slate reimburse Local 284 one hour pay for Ms. May in the sum of \$16.50. This represents the work time that Ms.