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Michael H Holland
Election Officer

December 12, 1990

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VIA UPS OVERNIGHT

Brendan F. Kaiser
Secretary-Treasurer
IBT Local Union 579
2214 Center Avenue
Janesville, WI 53546

John B. Wilson
4304 Oldwyck Drive
Janesville, WI 53546

Clifford T. Chentnik
Route # 2, Box 499-3
Lake Geneva, WI 53147

Re: Election Office Case No. P-056-LU579-NCE

Gentlemen.

A pre-election protest was filed pursuant to the Rules for the IBT International Union Delegate and Officer Election, revised August 1, 1990 ("Election Rules"). In his protest the complainant, Brendan F. Kaiser, alleges that the Election Rules were violated by John B. Wilson as a result of Mr. Wilson's attendance at a craft meeting, other than his own, and because of Wilson's campaigning on company time with a company vehicle. In turn, Mr. Wilson objects to his exclusion from the craft meetings and alleges that such exclusion was violative of the Election Rules and the IBT Constitution. Kaiser also alleges in his protest that Clifford T. Chentnik used his company vehicle to distribute campaign literature in violation of the Election Rules.

The Election Officer's investigation revealed the following.

John Wilson is an employee of Janesville Auto Transport Company (hereinafter "JATCO"). Wilson is a "yard" employee of JATCO. JATCO also employs IBT members who are classified as "drivers". On November 10, 1990, after the completion of a general membership meeting at the Local Union hall, a craft meeting was held for JATCO drivers to discuss new federal motor carrier regulations. Wilson stayed for the meeting but was asked to leave by Kaiser. After an initial refusal to leave, Wilson left the meeting after about ten minutes.

Article VIII, Section 4(a) of the Election Rules provides that no candidate may be denied access to any membership meeting of his/her Local Union. The meeting in question was not a membership meeting, but rather a craft meeting. While the Election

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Rules do not address the issue of attendance at craft meetings, the IBT Constitution recognizes that IBT members have the right to attend all of the meetings of their craft. See, IBT Constitution, Article XIV, Section 2 (a)(3). Further, under the IBT Constitution, all members of the Local Union have a right to attend and participate in any craft meeting which is not expressly limited to the discussion or consideration of craft issues. The denial of member's access to a craft meeting that he is otherwise entitled to attend, because of his campaign activity, is a form of discrimination which is violative of the Election Rules. However, in the instant case it appears that Wilson did not have a right to attend the craft meeting because it was limited to a discussion of craft issues

Wilson drives a van, owned by JATCO, transporting drivers and material at the JATCO facility and the adjoining Fleet Carriers facility. Wilson carries campaign literature in this van, and distributes the campaign literature to IBT members working at JATCO and Fleetwood. Wilson distributes these materials in non-work areas, including the drivers break room at Fleetwood. While it was alleged that Wilson was distributing material in work areas, the investigation found no facts to support this allegation.

The Election Officer's investigation found no evidence that Wilson distributed campaign materials on his work time. Such distribution was limited to break periods and after the end of his shift. Two of the witnesses identified by the complainant stated that they saw Wilson talking about the campaign and asking members, who were on work time, to sign a petition for Ron Carey's slate. Even crediting these witnesses, the Election Officer finds that the Wilson's campaigning on work time was limited in time and, thus, incidental to his normal work duties.

Kaiser alleges that Chentnik violated the Election Rules when he used his company vehicle to distribute campaign literature on company time. The incident in question occurred on October 2, 1990, more than a month prior to the filing of the protest. Chentnik is a driver for Roadway Express. On October 2, he made a delivery to Economic Labs in South Beloit, Illinois. After the completion of the delivery, he traveled to Beetram Foods warehouse approximately a mile away. At Beetram, Chentnik distributed campaign materials to IBT members in a lunch room. Chentnik was on his lunch break at the time and the use of the Roadway vehicle was authorized under a company policy that permits the use of a vehicle by employees on their lunch break.

Article X, Section 1 (b) (4) of the Election Rules provides that "campaigning incidental to work or regular Union business or during paid vacation, paid lunch hours or breaks, or similar paid time off is not violative of the campaign contribution rules". The Election Officer finds that Wilson's and Chentnik's distribution of campaign

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materials occurred on break or lunch periods and, therefore, did not violate the Election Rules. Similarly, Wilson's campaigning on work time was limited in duration and incidental to his regular work, and therefore consistent with the limitations contained in the Election Rules.

Both Wilson and Chentnik are alleged to have used their employer's vehicles to distribute literature. The investigation revealed that Wilson kept a supply of campaign material in the company van that he drove, and distributed this material on non-work time. Similarly, Chentnik carried campaign literature in his truck and distributed this material during an authorized lunch break. Because the use of the vehicles in question was not inconsistent with their normal business use, the Election Officer finds that the use of the vehicle was incidental, and therefore not violative of the Election Rules.

The Election Officer concludes that none of the conduct alleged in the instant protest was violative of the Election Rules

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
Election Officer

cc: Frederick B. Lacey, Independent Administrator, IBT
Barbara Zack Quindell, Regional Coordinator