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Michael H Holland
Election Officer

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December 12, 1990

VIA UPS OVERNIGHT

Robert McGinnis
6319 S. Lavergne
Chicago, IL 60638

William Joyce
Secretary-Treasurer
IBT Local 710
4217 S Halsted St.
Chicago, IL 60609

Daniel Ligurotis
Secretary-Treasurer
IBT Local 705
300 S Ashland
New Haven, CT 06507

Re: Election Office Case No. P-072-LU710,705-CHI

Gentlemen:

A pre-election protest was filed pursuant to Article XI, § 1 of the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("*Rules*"). In his protest Robert McGinnis complains that a Union Steward solicited signatures for a petition in support of the candidacy of Daniel Ligurotis and his slate during work time on the premises of Hyman Freightways ("Hyman"). The protest also suggests that employees of Hyman Freightways were intimidated by the Steward to secure their signatures.

The investigation shows the following: Tom Perfect is a Hyman employee on long term disability leave and a Local 705 steward. He continues to function as a steward for Hyman employees while he is on the disability leave of absence. In his steward capacity he visits the work site once or twice per week.

During the week of October 28-November 2, 1990, Perfect solicited signatures for the Ligurotis slate shortly before the start of the 7:00 a.m. shift. There is no evidence as to what was said by the steward to the drivers he was soliciting.

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During the week of November 11-17, 1990, Perfect circulated petitions in a work area during non-work time. During the week of November 18-24, 1990, he circulated petitions in the break room. There is no evidence as to what, if anything, Perfect said to the drivers.

Article VIII, § 10 provides as follows:

All Union members retain the right to participate in campaign activities including the right to aid or campaign for any candidate. No member may campaign during his/her working hours. Campaigning incidental to work is not, however, violative of this section. Further campaigning during paid vacation, paid lunch hours or breaks or similar paid time off is also not violative of this section.

The *Rules* also allow for campaigning "incidental to regular Union business." Article VIII, § 10(b).

The evidence shows only that Mr. Perfect was soliciting signatures during his paid disability leave and during the non-working time of the employees solicited.

There is no evidence that any employee was intimidated into signing the petition.

Thus, the *Rules* have not been violated, and the protest is denied.

The fact that non-Hyman employees were denied access by the employer for the purpose of soliciting signatures on the Carey slate does not affect the decision. While non-employees may have certain access rights, an employer may impose greater restrictions on campaign activity by non-employees including denying access to the terminal and other buildings. NLRB v. Babcock and Wilcox, 351 US 105, 38 LRRM 2001 (1956); Jean Country, 291 NLRB No 4, 129 LRRM 1201 (1988).

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

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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. Holland", written over the typed name below.

Michael H. Holland

MHH/mjv

cc: Julie E Hamos, Regional Coordinator
Julie E Hamos & Assoc.
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Chicago, IL 60603
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