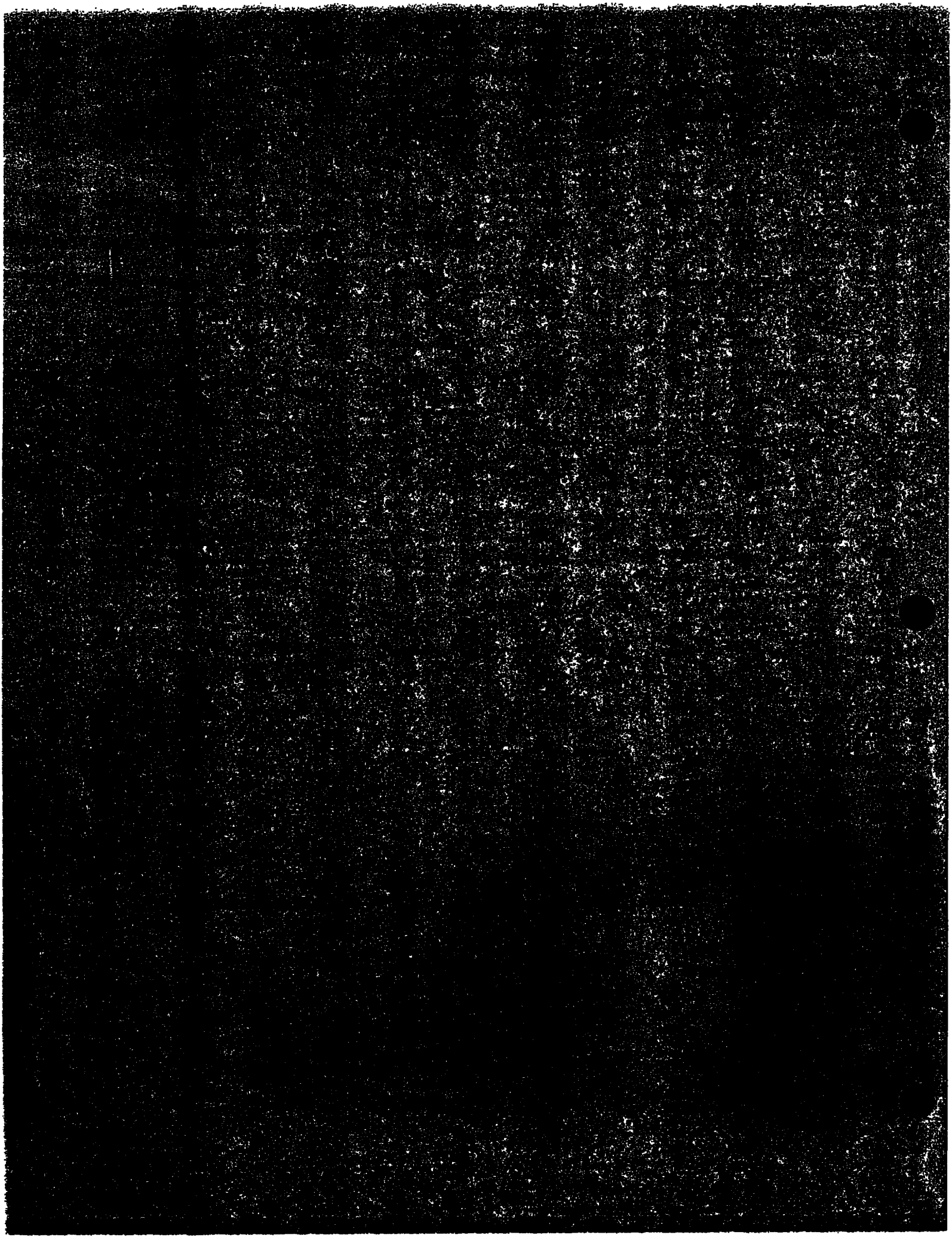

OFFICE OF THE ELECTION OFFICER
% INTERNATIONAL BROTHERHOOD OF TEAMSTERS
25 Louisiana Avenue, NW
Washington, DC 20001
(202) 624-8778
1 800-828 6496
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Michael H Holland
Election Officer

Chicago Office
% Cornfield and Feldman
343 South Dearborn Street
Chicago, IL 60604
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December 20, 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-093-LU710-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 alleges that James Corcoran, a city driver for Advance Transportation, solicited petitions for the Ligurotis slate on non-work time on or about the first week in December. This protest was investigated by Regional Coordinator, Julie Hamos

The investigation shows as follows The protestor, Mr. McGinnis, did not personally witness any of the events forming the basis of the protest However, Mr Archie Cook, an IBT member, states that he was solicited by Mr James Corcoran, another IBT member, to sign the petitions of William Joyce and Walter Shea, while both drivers were engaged in freight pick up at USCO, a company in Alsip, Illinois. Mr Cook believes the solicitation occurred around 5.00 p.m. He is, however, unsure of the date of the solicitation, but believes it may have occurred during the week of Thanksgiving, 1990. He states further that neither he nor Mr. Corcoran were actually loading freight at the time the alleged solicitation occurred Mr Cook did not sign the petition. Mr.

Cook states he saw no one else soliciting, and no other persons were present during his solicitation.

Mr. Corcoran, a Teamster member who drives for Advance Transportation, states that he has solicited membership signatures for Mr. Joyce and Mr. Shea, but he recalls no such solicitation at USCO. He states further that he was in Las Vegas on vacation during Thanksgiving week Mr. Cook cannot establish an actual date the alleged solicitation took place, and no other witnesses have been presented to corroborate the alleged misconduct.

Article VIII, Section 10 of the *Rules* prohibits campaign activity during working hours, but exempts campaigning "incidental to work." The evidence in this case, however, is insufficient to establish any evidence of campaign activity on work time other than campaigning which was incidental to work Therefore, the evidence in this case is insufficient to establish a violation of the *Rules*.

Additionally, the purported misconduct is alleged to have taken place during the last week of November, 1990. The protest was not filed until December 10, 1990 The protest is, therefore, untimely.

For all of the above reasons, the protest is 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/mjv

cc: Frederick B Lacey, Independent Administrator

Julie E Hamos, Regional Coordinator
Julie E. Hamos & Assoc.
122 S Michigan Ave , Suite 1850
Chicago, IL 60603
Tel: 312-427-4500
Fax 312-427-1850

IN RE: ROBERT McGINNIS, Complainant, and WILLIAM JOYCE, WALTER SHEA, and DANIEL LIGUROTIS, Respondents.	:	90 - Elec. App. - 29 DECISION OF THE INDEPENDENT ADMINISTRATOR

This matter arises out of an appeal from a December 20, 1990, decision of the Election Officer (Election Office Case No. P-93-710-CHI). On January 2, 1991, a hearing was held before me by way of teleconference. At that hearing the following persons were heard: John Sullivan of the Election Office; the Regional Coordinator, Julie Hamos; and Robert McGinnis ("McGinnis"), the complainant/appellant.

This pre-election protest arose under Article VIII, § 10 of the Rules for the IBT International Union Delegate and Officer Election, revised August 1, 1990 ("Rules"). At issue in this protest was the allegation by complainant McGinnis that James Corcoran ("Corcoran"), an employee of Advance Transportation, was soliciting signatures, on work time, on accreditation petitions for William Joyce ("Joyce") and Walter Shea ("Shea"), who are running on an IBT International Officer slate with Daniel Ligurotis ("Ligurotis"). McGinnis does not name Corcoran in his protest, but rather attributes his wrongful conduct to Joyce, Shea, and Ligurotis.

More specifically, it is contended by McGinnis that Corcoran solicited the signature of Archie Cook ("Cook") on the aforesaid petition while both were actually loading freight.

The Election Officer assumed that there was such a solicitation while both Corcoran and Cook were on work time. The Election Officer was advised by Cook, however, that neither he nor Corcoran was actually engaged in loading freight at the time of the solicitation.

While McGinnis now states that Cook told him that he, Cook, was loading freight at the time of the solicitation, I am compelled to accept the finding of the Election Officer that neither Cook nor Corcoran was loading freight at the time, nor were they driving their trucks at the time.

I affirm the Election Officer's December 20, 1990, decision that to the extent there was any campaign activity on work time, it was "incidental to work" as permitted by Article VIII, §10. It is noted that McGinnis was advised by me that if, within 48 hours, he submits to me an affidavit from Cook stating that he was actually loading freight at the time of the solicitation, I will reconsider my decision as to whether there was a violation of the Election Rules. On the other hand, the issue of timeliness still remains to prevent me from entertaining this appeal on the merits.

Frederick B. Lacey
Independent Administrator

Dated: January 3, 1991.