



OFFICE OF THE ELECTION OFFICER
% INTERNATIONAL BROTHERHOOD OF TEAMSTERS
25 Louisiana Avenue, NW
Washington, DC 20001
(202) 624-8778
1-800-828-6496
Fax (202) 624-8792

Michael H. Holland
Election Officer

November 1, 1991

Chicago Office:
% Cornfield and Feldman
343 South Dearborn Street
Chicago, IL 60604
(312) 922-2800

VIA UPS OVERNIGHT

Doug Mims
IBT Local Union 728
2540 Lakewood Avenue, S.W.
Atlanta, GA 30315

Donald S. Scott
President
IBT Local Union 728
2540 Lakewood Avenue, S.W.
Atlanta, GA 30315

Roadway Express
Route 3
Box 1175
Lake Park, GA 31636

R. Jerry Cook
President
IBT Local Union 528
2540 Lakewood Avenue, S.W.
Atlanta, GA 30315

Re: Election Office Case No. P-1011-LU728-SEC

Gentleman:

A protest was filed pursuant to the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("*Rules*") on behalf of Doug Mims, a candidate for IBT Vice-President for the Southern Conference on the Carey Slate. The protest contends that Mr. Mims was not permitted to campaign in non-work areas inside the Roadway Express Lake Park, Georgia facility. The protest claims that R. V. Durham and Jerry Cook, nominated candidates for General President and Vice President for the Southern Conference, respectively, on the Durham Unity Team slate, have recently campaigned at length inside the facility. It is therefore claimed that the equal access requirement of the Rules has been violated.

Article VIII, § 10(d) of the *Rules* requires that an employer's facilities "shall be made equally available on the same basis to all candidates and members." Mr. Mims is not an employee of Roadway nor is he a member of Local Union 528, the Local representing IBT members employed at the Lake Park, Georgia facility. As noted in the Advisory Regarding Political Rights, IBT members not members employed by the employer need not, absent past practice, be permitted access to the interior of the employer's facility for campaigning. Roadway has agreed that IBT members not employed by it may campaign in the parking lot at all its facilities. As is acknowledged by the protest, Mr. Mims was so informed by the terminal manager at the Lake Park facility. In the absence of other candidates being afforded greater access at this facility, the *Rules* require nothing further.

Doug Mims
November 1, 1991
Page 2

The Election Officer investigation has revealed that no greater access was afforded for campaigning purposes by Roadway at its Lake Park, Georgia facility. Neither Mr. Mims nor his witnesses had any personal knowledge or documents to support the allegation that Mr. Durham had gained access to the interior of this facility for campaigning or any other purposes. Roadway states that Mr. Durham has not visited its facilities in Lake Park, Georgia for any purposes. The Election Officer investigation revealed no evidence to dispute this claim.

There is no dispute that Mr. Cook has been inside the Lake Park facility. Mr. Cook is the President of Local 528, which is the Local to which the IBT members employed by Roadway at this facility belong. Mr. Cook visited the facility, accompanied by a business agent, in approximately August, 1991. While there, he spoke to IBT members. There is absolutely no evidence that Mr. Cook engaged in any campaigning, or distributed campaign material, during the period of his visit. There is no evidence that Mr. Cook, or any other candidate for International Union office, or any IBT member not employed by the Lake Park Roadway facility was granted access to the interior of that facility for campaign purposes. Accordingly, 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/ca

cc: Frederick B. Lacey, Independent Administrator
Donald H. Williams, Regional Coordinator

Doug Mims
November 1, 1991
Page 3

Ron Carey
c/o Richard Gilberg, Esquire
Cohen, Weiss & Simon
330 West 42nd Street
New York, NY 10036-6901

R. V. Durham
c/o Hugh J. Beins, Esquire
Beins, Axelrod, Osborne
& Mooney
2033 K St., NW
Suite 300
Washington, D.C. 20006-1002

Walter Shea
c/o Robert Baptiste, Esquire
Baptiste & Wilder
1919 Pennsylvania Avenue, N.W.
Suite 505
Washington, D.C. 20006

Richard Bennett, Esquire
Roadway Services, Inc.
1077 Gorge Boulevard
P.O. Box 88
Akron, Ohio 44309-0088