



OFFICE OF THE ELECTION OFFICER  
% INTERNATIONAL BROTHERHOOD OF TEAMSTERS  
25 Louisiana Avenue, NW  
Washington, DC 20001

Michael H. Holland  
Election Officer

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November 27, 1991

**VIA UPS OVERNIGHT**

Joseph Kouba  
9127 South Francisco  
Evergreen Park, Illinois 60642

William D. Joyce  
Secretary-Treasurer  
4217 South Halsted Street  
Chicago, Illinois 60609

United Parcel Service  
Loss Prevention and Inter-District Feeder  
Attn: Denny Barts, Division Manager  
6700 West 73rd Street  
Bedford Park, Illinois 60638

**Re: Election Office Case No. P-1048-LU710-CHI**

Gentlemen:

A protest was filed pursuant to the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("Rules") by Joseph Kouba, a member of Local Union 710. In his protest, Mr. Kouba alleges that his rights under the *Rules* were violated by his employer, United Parcel Service ("UPS"), whom he alleges is harassing him because of his activities on behalf of Ron Carey and the Ron Carey Slate.

Mr. Kouba has been employed as a road driver at the Bedford Park, Illinois UPS terminal since 1977. Local 710 is the collective bargaining representative at that location. For the past eleven (11) years, Mr. Kouba has been an active member of Local 710, known to oppose the present leadership of Local 710. Since the commencement of the 1991 IBT International Union officer election, Mr. Kouba has actively participated, supporting the candidacy of Ron Carey for General President.

On June 10, 1991, Mr. Kouba filed a charge with the National Labor Relations Board ("NLRB") alleging UPS was discriminating against him because of his Union activities. This charge was later amended on October 24, 1991 to include Mr. Kouba's allegation that Pat Matijevich, a UPS supervisor, harassed him on June 17, 1991 because of his having filed the NLRB charge. In addition, Mr. Kouba informed the Election Officer

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that on November 15, 1991; a UPS Loss Prevention vehicle followed Mr. Kouba for a distance of over one-hundred miles in a way purportedly calculated to harass and intimidate him. In its communications with the Election Officer, UPS denied any harassment occurred.

Mr. Kouba stated that UPS knows he is active on behalf of the Ron Carey Slate. However, Mr. Kouba, has also been an active Union dissident for the past eleven (11) years. In the statement he gave to the NLRB in connection with his unfair labor practice charge, Mr. Kouba details his dissident activity in detail and suggests that UPS discriminates against him -- including discharging him on February 19, refusing to provide him backpay after his reinstatement from such discharge, denying him assignments and the like -- because of such dissident activity. Neither the NLRB charge filed in June, 1991, the amendment filed on October 24, 1991 nor the statement made by Mr. Kouba to support his charge mentions any alleged discrimination by UPS against him because of his activity in connection with the 1991 IBT International Union officer election.

Whether or not UPS is discriminating against Mr. Kouba, the evidence shows no correlation between the actions of UPS and International Union officer election related activity of Mr. Kouba. Mr. Kouba by the terms of his charge with the NLRB and his statement in support of that charge correlates the actions of UPS against him with general Union dissident activity not with the 1991 IBT International Union officer election. Retaliation based upon Union activity may be illegal but is outside the jurisdiction of the Election Officer; the Election Officer's jurisdiction extends only to discrimination or retaliation based upon activity related to or implicating the 1991 IBT International Union officer election over which he has jurisdiction.

The evidence as determined by the Election Officer's investigation in this case fails to demonstrate that the alleged retaliation suffered by Mr. Kouba is based upon activity over which the Election Officer has jurisdiction. The evidence does not establish that the actions of UPS emanated from Mr. Kouba's election related activities as opposed to his general Union activities. In the absence of such evidence, the proper forum for Mr. Kouba's complaint is the NLRB, before whom unfair labor practice charges are presently pending. 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.

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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

Julie E. Hamos, Regional Coordinator

Martin Wald, Esquire  
Schnader, Harrison, Segal & Lewis  
Suite 3600  
1600 Market Street  
Philadelphia, PA 19103  
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