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Michael H. Holland
Election Officer

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November 15, 1991

VIA UPS OVERNIGHT

Thomas B. Griffith
President
IBT Local Union 776
2552 Jefferson Street
Harrisburg, Pennsylvania 17110

St. Johnsburgy Trucking
475 Terminal Road
Camp Hill, PA 17011

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

Re: Election Office Case No. P-1079-LU776-PHL

Gentlemen:

A protest was filed by Thomas B. Griffith, President of IBT Local Union 776, located in Harrisburg, Pennsylvania, alleging that R. V. Durham was permitted to campaign at St. Johnsburgy Trucking Company in Camp Hill, Pennsylvania ("St. Johnsburgy"), during working hours and that St. Johnsburgy supervisors told employees to go to the dock area to hear Mr. Durham's speech. This protest was investigated by Regional Coordinator Peter V. Marks, Sr.

St. Johnsburgy employs approximately 285 IBT members on two shifts. St. Johnsburgy permitted IBT General President candidate R. V. Durham to engage in campaign activities at its Harrisburg, Pennsylvania facility in the dock area. He campaigned there among members who were on company-paid work time. None of the employees were disciplined or had their pay reduced as a result of their listening to Mr. Durham's presentation or otherwise participating in the campaign activities. Mr. Durham's presentation lasted approximately twenty to twenty-five minutes; his presentation was interrupted after that time by managerial employees of the company and the presentation ceased.

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The access afforded to Mr. Durham by St. Johnsbury was almost identical to the access previously provided by that company to IBT General President candidate Ron Carey. On or about October 3, 1991, Mr. Ron Carey also visited the St. Johnsbury Trucking facility. He was accompanied by Mr. Thomas B. Griffith, one of his supporters, the President of Local 776 and the member who filed this protest. Mr. Carey campaigned in the lunchroom for approximately twenty-five to thirty minutes. Although his visit occurred at the time of the shift change, he was present in the lunchroom during working hours at the end of the shift and at the beginning of the next shift. Many employees went to the lunchroom to see Mr. Carey during their working hours. Other employees were slow in returning to or commencing their assigned job duties. Supervisors complained to St. Johnsbury Terminal Manager Ferguson about the many employees who left their work stations to hear Mr. Carey and did not quickly return to work and the many who arrived late. St. Johnsbury Trucking Company did not discipline any of the employees who left work to hear Mr. Carey or who started working late; no employees pay was docked.

St. Johnsbury was later contacted by Mr. Durham or others on his behalf seeking access to the Camp Hill facility for campaign purposes. Cognizant of its obligations under Article VIII, § 10(d) of the *Rules* to provide equal access to all nominated candidates competing for the same International Union office, but not wanting a repetition of the situation which had occurred with Mr. Carey--an uncontrolled situation with employees straggling back to work long after Mr. Carey had finished making his presentation--the terminal manager Mr. Ferguson decided to permit Mr. Durham to have access to the dock area for campaign purposes. Mr. Ferguson wanted to control the assemblage; permitting Mr. Durham to campaign in the dock area created less disruption since it was easier to get employees quickly back to work after the presentation was over and prevented employees from becoming "sidetracked" as they returned to their work from the campaign presentation. Mr. Durham's campaign presentation was limited to the same length of time as Mr. Carey had been permitted to campaign in the facility; as noted above, when that time period elapsed, the presentation was stopped by managerial employees of the company.

Article VII, § 10(d) of the *Rules* requires employers to afford equal access to their facilities for all competing candidates for any particular International office. Terminal Manager Ferguson intended to afford and did afford Mr. Durham the same opportunity to address the employees given to Mr. Carey. Thus, all employees were given the opportunity to hear Mr. Carey and Mr. Durham; both were permitted to address the

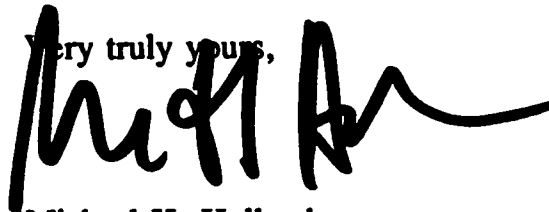
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employees for approximately 30 minutes. During both presentations, employees were on work time but neither disciplined nor docked.

The Election Officer concludes that St. Johnsbury afforded equal access to its facilities for campaign purposes to the two International Union officer candidates who requested such access. There is no allegation or evidence that any other International Union officer candidate requested similar access or, if a request would be made, would be denied similar access. Under these circumstances the Election Officer concludes that the *Rules* have not been violated and 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
Peter V. Marks, Sr., Regional Coordinator

¹ Terminal Manager Ferguson states that many more employees actually heard Mr. Carey than Mr. Durham, either because Mr. Carey's visit coincided with a shift change or more employees wanted to hear him.

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

Walter Shea
c/o Robert Baptiste, Esquire
Baptiste & Wilder
1919 Pennsylvania Avenue, NW
Suite 505
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