



OFFICE OF THE ELECTION OFFICER
% INTERNATIONAL BROTHERHOOD OF TEAMSTERS
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Washington, DC 20001

Michael H. Holland
Election Officer

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November 20, 1991

VIA UPS OVERNIGHT

Michael H. Dunn
4811 Cane Run Rd.
Louisville, KY 40216

Norman C. Hug
President
IBT Local Union 89
3813 Taylor Blvd.
Louisville, KY 40215

United Parcel Service
8001 Ashbottom Rd.
Louisville, KY 40213

Re: Election Office Case No. P-1090-LU89-SCE

Gentlemen:

This protest was filed pursuant to the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("*Rules*"), by Michael H. Dunn, a member of IBT Local Union 89 located in Louisville, Kentucky. The protest alleges that United Parcel Service ("*UPS*"), Mr. Dunn's employer, has violated the *Rules* in demanding that Mr. Dunn remove his truck--which contains a campaign sign--from UPS's parking lot during the periods when he is not at work. The protest was investigated by Regional Coordinator Peggy A. Hillman.

Mr. Dunn's pickup truck contains a large 4' x 8' campaign sign promoting the candidacy of General President candidate Ron Carey. He parks in a large UPS parking lot which contains approximately 5,000 parking spaces. He wishes to leave his pickup truck in the parking lot on a permanent basis during the ongoing election campaign. UPS has demanded that he remove the truck when he is not at work.¹

Dunn has complied with this demand, under protest. Instead of leaving his truck in the lot, he has allowed other employees to drive the truck to work when they are working, in a sort of shuttle operation, so that the truck is in the parking lot at times when Dunn himself is at work as well as when he is not at work, but another driver is at work.

¹ UPS does not contend and may not prohibit a vehicle from being parked in the lot when the driver of the vehicle is at work, merely because the vehicle displays a campaign sign. *Rules*, Article VIII, § 10(d); see, e.g., Swan Coal Company, 272 NLRB 865 (1984).

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Dunn claims that other vehicles are left in the parking lot for lengthy periods and that the only reason UPS is demanding that his vehicle be removed when no driver is present is because of the large campaign sign. UPS denies that it has knowingly permitted other vehicles to remain in the parking lot. UPS denies that it is discriminating against Mr. Dunn because of the campaign sign on his truck.

Mr. Dunn contends that other vehicles have been parked in the parking lot for long periods of time, including periods when the drivers of the vehicles were not at work. Among the many UPS employees who use the parking lot are airline pilots whose work schedules are lengthy; the pilots park their cars in the lot and the cars remain in the lot until the pilots return from their scheduled trips, many days later. Although the cars remain in the lots for many days, the pilots are at work during the whole period that the cars remain parked.

Dunn has also called the Election Officer's attention to at least two cars, and suggests that there are also additional vehicles, which have remained parked in the lot for many months. UPS claims that prior to this protest, it was unaware of the existence of these vehicles. The Election Office investigation has uncovered no evidence suggesting that UPS was previously aware that vehicles remained parked in the lot for long periods of time, including periods where the driver of the vehicle was not working. The parking lot, as noted above, is very large; unlike Dunn's truck with the large campaign sign, the other vehicles to which Dunn points contain no markings which make them as easily identifiable.

The Election Officer finds no violation in this situation. Mr. Dunn is being afforded substantial opportunity to exhibit his campaign sign in the parking lot, both during his work shift and during the shifts of other employees who are driving his truck. While it may be that his vehicle with its large campaign sign is more conspicuous than other vehicles which UPS has overlooked, there is no evidence that UPS has intentionally discriminated against Mr. Dunn in requiring that he or another employee be at work when the vehicle is parked in the lot.

For these reasons, the protest is hereby 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,

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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

MHH/cb

cc: Frederick B. Lacey, Independent Administrator

Peggy A. Hillman, Regional Coordinator

Martin Wald, Esq.
Schnader, Harrison, Segal & Lewis
Suite 3600
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Ron Carey
c/o Richard Gilberg, Esquire

R. V. Durham
c/o Hugh J. Beins, Esquire

Walter Shea
c/o Robert Baptiste, Esquire