



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 22, 1991

**VIA FACSIMILE WHERE INDICATED AND UPS OVERNIGHT**

Steve Blair  
Vice President  
IBT Local Union 1199  
2995 Windsong Dr.  
Cincinnati, OH 45239

Doug Gerrity  
7-Up Bottling Co.  
5151 Fisher Ave.  
Cincinnati, OH 45217

Steven C. Saunders  
President  
IBT Local Union 1199  
1600 Central Parkway  
Cincinnati, OH 45210

**Re: Election Office Case No. P-1111-LU1199-SCE**

Gentlemen:

A protest was filed with the Election Office pursuant to Article XI of the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("*Rules*"). In his protest Steve Blair, Vice President of Local Union 1199, alleges that campaign literature was removed from and that he was prohibited from further posting campaign literature on general purpose bulletin boards at his place of work by the 7-Up Bottling Company ("7-Up"). Blair further alleges that his employer's conduct was violative of the *Rules*. The Election Officer's investigation revealed the following.

Steve Blair is a member of Local Union 1199 and a driver employed by 7-Up at its Cincinnati, Ohio facility. 7-Up admittedly has general purpose bulletin boards at that facility. Employees are permitted to post personal notices, for-sale signs, and so on these bulletin boards. However, 7-Up will not permit employees to post campaign literature on these general purpose bulletin boards. The reason for this restriction is that 7-Up does not want to become involved in political conflicts and wants to avoid conflicts among its employees. 7-Up also asserts that employees have access to each other to campaign without using the bulletin boards.

Steve Blair states that he and others have posted campaign literature on these bulletin boards until just recently. 7-Up disputes this contention. However, 7-Up does not dispute that its bulletin boards, including the boards from which campaign material has been removed, are available for the general purpose employee posting described above.

Steve Blair  
November 22, 1991  
Page 2

Both the Election Officer and the Independent Administrator have long recognized that neither an employer nor a union may prevent employees from posting union literature on company bulletin boards where, as here, employees were allowed to post other kinds of material in the past. See, e.g., In Re: Hall, 90-Elec. App.-1. This rule is based upon firmly established principals of federal labor law. See, e.g., Helton v. NLRB, 656 F.2d 883 (D.C. Cir. 1981) (Union committed unfair labor practice when it refused to allow employees to post materials critical of union on the union's bulletin board, despite collective bargaining prohibition on such posting, where it was found that such prohibition had not been enforced in the past); Container Corp. of America, 244 NLRB No. 53, 102 LRRM 1162 (1979) (Employer violated LMRA when it removed union's news letters from bulletin boards and threatened employee with disciplinary action for any reposting of newsletters, since workers in past used bulletin boards to post personal and union notices without policing by employer); Vincent's Steak House, 216 NLRB 647 (1975) (An employer interfered with protected rights by removing an article about union picketing over another restaurant's rule that waitresses appear happy, since the bulletin board on which the notice was posted had always been available for personal use, in spite of a rule to the contrary).

In light of the forgoing the Election Officer determines that the *Rules* have been violated and orders the following relief.

7-Up, its officers, and agents, shall cease and desist from removing campaign literature posted on bulletin boards in its Cincinnati facility<sup>1</sup> and shall further cease and desist from denying any of its employees the opportunity to post campaign literature on such boards.

No appeal of this determination shall stay the effectiveness of this order. See *Rules*, Article XI, § 2(z).

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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<sup>1</sup> In his protest Mr. Blair alleges that 7-UP removed the Election Officer's Official Notice of Election from the bulletin board. If this allegation is true, or if the posting has otherwise been removed from the bulletin board, 7-UP shall immediately repost the Notice of Election, a copy of which is attached hereto.

Steve Blair  
November 22, 1991  
Page 3

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  
Election Officer

cc: Frederick B. Lacey, Independent Administrator

Peggy A. Hillman, Regional Coordinator

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**Steve Blair**  
**November 22, 1991**  
**Page 4**

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