

OFFICE OF THE ELECTION OFFICER
% INTERNATIONAL BROTHERHOOD OF TEAMSTERS
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Election Officer

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December 2, 1991

VIA UPS OVERNIGHT

Patrick N. Clement
4688 S. 112 Street
Greenfield, WI 53228-2525

Don Bebow
Vice President of Manufacturing
Admanco, Inc.
Industrial Park
Ripon, WI 54971

Darryl Connell
S15W37174 Willow Springs Dr.
Dousman, WI 53118

Kenneth Friesner, Secretary-Treasurer
Don Wetzel, Business Agent
IBT Local Union 200
6200 Bluemond Road
Milwaukee, WI 53213

Re: Election Office Case No. P-1113-LU200-NCE

Gentlemen:

A protest was filed pursuant to Article XI of the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("*Rules*") by Patrick N. Clement, a member of Local Union 200. Mr. Clement claims that he and Local 200 member Darryl Connell were improperly prevented from placing campaign literature on cars parked in the employee parking lot of Admanco, Inc. in Ripon, Wisconsin. The protest was investigated by Regional Coordinator Barbara Quindel.

Messrs. Clement and Connell are both members of Local 200. Neither are employed by Admanco; however, Local 200 represents IBT members employed by Admanco. On November 21, 1991, Messrs. Clement and Connell, both of whom support the candidacy of Ron Carey for IBT General President and the other members of the Ron Carey Slate, were placing campaign literature on the windshields of cars parked in the employee parking lot at the Admanco facility located in Ripon, Wisconsin. They were approached by Don Bebow, Vice President of Manufacturing, to ascertain

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their purpose for being on Admanco's property; when Mr. Bebow learned that they were there for campaign purposes, he asked them to leave.

Article VIII, § 10(d) of the *Rules* provides that no restrictions shall be place on IBT members' pre-existing rights to engage in campaign activities on the property of employers of IBT members. Pre-existing rights include both "past practice or agreement among employers and the IBT . . . and any substantive rights of Union rights to engage in such conduct as established by applicable law." United States v. International Brotherhood of Teamsters et al, _____ F.2d _____ (Docket No. 91-6096) (2nd Cir., October 29, 1991). Slip Opinion at page 21.

The Election Officer investigation established no past practice or agreement between Admanco and the IBT permitting IBT members not employed by Admanco access to the company's Ripon, Wisconsin facility, including the private property of the company exterior to the facility building itself, for any purpose other than official Union business. There is no evidence that Admanco has ever permitted persons not employed by it access to its private property for the purpose of soliciting. Hence, there is no evidence that Admanco discriminated against Messrs. Clement and Connell based either on the nature of their activities--intra-Union political activities--or the content or their message--campaigning on behalf of Ron Carey and the Ron Carey Slate.

Substantive law affords IBT members certain rights to engage in campaign activities on employer premises. IBT members not employed by the employer or at the particular facility of the employer are also afforded certain rights, albeit far more limited than the rights afforded to IBT members employed by the employer. Where IBT members not employed by the employer have no alternate means of communicating with IBT members so employed, the employer's rights of private property must accommodate the right to engage in campaign activities. Under those circumstances, Article VIII, § 10(d) of the *Rules* prohibits an employer from restricting access to its property for campaign purposes, including access by IBT members not employed by it. United States v. International Brotherhood of Teamsters et al, *supra*, Slip Opinion, pp. 21ff; see also Advisory Regarding Political Rights, issued December 28, 1990.

The Ripon facility of Admanco is located in an industrial park area along Kohl Drive. Kohl Drive, partly a public road and partly a private road, is used exclusively by persons seeking access to the facility. Kohl Drive leads into and "dead ends" at the western entrance to the employee parking lot; Kohl Drive then emerges at the eastern entrance of the parking lot. The western and eastern entrances are the only two means of access to the parking lot; Kohl Drive is the exclusive means of gaining entry to or exiting from the parking lot; Kohl Drive leads to no facility other than the Admanco Ripon, Wisconsin plant.

On the west side of the Admanco plant, Kohl Drive is a public road for approximately one mile from the point of its intersection with a north-south street apparently named Industrial Park Road. At the point where Kohl Drive changes into a private road, the property of Admanco, there is a sign in the middle of the street stating "Unauthorized Vehicles Keep Out--Police Called Immediately." The speed limit for the private portion of Kohl Drive is posted at ten miles per hour; the roadway as it emerges from the western entrance to the employee parking lot is presently under construction, further reducing the speed of vehicles. Although there are no sidewalks along the public portion of Kohl Drive, all vehicles using that roadway are either destined for or leaving the Admanco facility; all are traveling at a slow rate of speed. Further the Election Officer investigation determined that only a small minority of the IBT members employed by Admanco, less than 30 percent, enter or leave the employee parking lot by the western entrance.

The east entrance of the parking lot, the means of entry and egress utilized by most IBT members employed by Admanco, is a private roadway for approximately 100 yards. The posted speed limit is again ten miles per hour. At the point where the roadway changes from a private to public street, it is posted identically to the posting on the west side of the plant. The roadway is then a public street for approximately 15 yards, at which point it "dead ends" into Stanton Drive, a north-south street.

All cars entering or leaving the Admanco facility from the east do so from the south; to the north, Stanton Drive is utilized only by persons seeking entry or egress from Didion Grains. On Stanton Drive, approximately ten yards south of the intersection between Stanton Drive and Kohl Drive is a railroad crossing. Stop signs are positioned on both the north and south sides of the crossing. Accordingly, all vehicles entering or leaving the Admanco facility are required to stop approximately ten yards prior to turning onto or leaving Kohl Drive. Except for the persons entering or leaving Didion Grains, Stanton Drive is used exclusively by persons working at or visiting the Admanco facility.

The Election Officer's investigation revealed that successful solicitation, including leafletting, has occurred at or about the railroad tracks on Stanton Drive just prior to the intersection between Stanton Drive and Kohl Drive. Further, the Election Officer investigation revealed that vehicles exiting the parking lot from the west not only travel slowly due to the posted speed limit but at shift change time, the traffic is "bumper to bumper."


Under these circumstances, the limited traffic and slow speed of vehicles entering and exiting the Ripon, Wisconsin facility of Admanco and the stop signs at the more heavily utilized eastern entry, the Election Officer concludes that IBT members not employed by Admanco have available a means of communicating with IBT members employed at that facility without entering on Admanco's private property. In Re: Mims

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and Super Foods Services, Inc., 91-Elec. App.-227, reversing Election Office Case No. P-994-LU728-SEC. Accordingly, Admanco did not violate the *Rules* by preventing Messrs. Clement and Connell access to its employee parking lot for campaign purposes 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/mjv

cc: Frederick B. Lacey, Independent Administrator

Barbara Z. Quindel, Regional Coordinator

Ron Carey
c/o Richard Gilberg, Esquire

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

Walter Shea
c/o Robert Baptiste, Esquire