



OFFICE OF THE ELECTION OFFICER
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Michael H Holland
Election Officer

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February 5, 1991

VIA UPS OVERNIGHT

Thomas R Salinas
519 Delmar
San Antonio, TX 78210

Preston D Ketchum
President
IBT Local Union 657
8214 Roughrider
San Antonio, TX 78239

Ed Tracy
Fleming Grocery
4300 Industry Park
San Antonio, TX 78210

Re: Election Office Case No. P-204-LU657-SEC

Gentlemen

A pre-election protest was timely filed pursuant to Article XI of the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("*Rules*") In his protest, Mr. Thomas Salinas alleges that he has been prohibited from distributing election literature in the parking lot at Fleming Grocery because he is a candidate for delegate to the 1991 IBT International Convention, contrary to past practice. Mr. Salinas is not an employee of Fleming Grocery.

The Election Officer Representative, Delores Hall, entered into discussion with Fleming Grocery subsequent to the filing of this protest Fleming Grocery stated that their policy was to prohibit access to the fenced-in parking lot area of the Grocery to non-employees of the company The management stated additionally that to their knowledge this policy has been enforced uniformly previously. The protestor was unable to present evidence of prior campaigning in the parking lot

On one previous occasion, Mr Salinas entered the facility and attempted to post materials on the bulletin board. Fleming claims that he gained access by claiming he was a Local Union agent Both parties agree, however, that he was requested to leave

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by Fleming and did so

Fleming agreed, however, to permit IBT members to distribute literature and otherwise engage in election campaign activity on its property in a grassy area directly outside the entrance to the fenced-in parking lot. The Election Officer representative inspected the area and noted that there is a wide driveway which Fleming employees use to enter and exit the parking lot. Large grassy areas border both sides of the driveway. Cars exit the driveway via an access road to the highway. It appears that candidates for IBT election who are not employed at Fleming could readily access employees as they enter or exit the parking lot by positioning themselves on the grassy area directly outside the gate to the parking lot. See Decision of Independent Administrator, 90-Elect App -43. Fleming agrees further that if IBT members not otherwise employed by it are making deliveries to the warehouse, they can campaign in the Drivers Break Room.

Thus, the protest has been RESOLVED

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/acm

cc Frederick B. Lacey, Independent Administrator
Donald H. Williams, Regional Coordinator