

OFFICE OF THE ELECTION OFFICER

% INTERNATIONAL BROTHERHOOD OF TEAMSTERS

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Michael H Holland
Election Officer

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February 8, 1991

VIA UPS OVERNIGHT

Gerald Moerler
1304 Glen Ct. #40
Chino Hills, CA 91709

Robert Marciel
Secretary-Treasurer
IBT Local Union 63
1616 W. Ninth St.
Room 205
Los Angeles, CA 90015

Vons Grocery Co
4344 Shirley Ave.
El Monte, CA 91731

Re: Election Office Case No. P-211-LU63-CLA
P-414-LU63-CLA

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. Gerald Moerler alleges that Vons Companies, Inc. and Local 63 have violated the *Election Rules* in that (1) a shop steward, Dave Bolger, covered his campaign literature which was posted on the employee bulletin board in Santa Fe Springs with job bidding information; (2) shop steward Tony De Luna also removed and covered campaign information, and (3) supervisors of Vons, John Ford and Floyd Stein, have prohibited the use of the employee bulletin board for campaign purposes. Mr. Moerler also contends that the employee bulletin board is too small and that the Union bulletin board is in a poor location at the Vons Santa Fe Springs location. Mr. Moerler alleges additionally that the *Rules* have been violated by Vons at their El Monte facility in that Vons has required that campaign literature be removed within two weeks after the date of posting, that the employee board has been enclosed with glass and locked, and that he has had difficulty with posting, specifically on January 28, 1991, because the key to the lock for the bulletin board could not be located.

Adjunct Gerry Fellman investigated the protest for the Election Officer. During the investigation he commenced settlement discussions with Local 63 and Vons Groceries, Inc. Subsequently Vons Groceries and Local 63 agreed to the following

1. Vons Groceries will install at its own expense a glass covered locked employee bulletin board to be installed in the Drivers Room at the Santa Fe Springs facility. Vons further agrees to provide one of its employees (but not Floyd Stein or John Ford) to be available at all times for the posting of campaign materials on the board. Vons will also move the Union bulletin board from its current location to a visible location in the Drivers Room at the Santa Fe Springs location. Additionally, that campaign materials at the El Monte, California location will be posted for a 30-day period after which time additional campaign materials will not be posted. Additionally, both Vons and Local 63 agree to sign, copy and post in Santa Fe Springs and El Monte, California copies of the notice attached to this decision. Local 63 agrees that official Union postings will only be posted on the Union bulletin board and not the employee bulletin board, thereby freeing space for more campaign postings.

The Election Officer concludes that these agreements remedy the protests.

The protestor has written the Election Officer urging that the settlement not be approved because it contemplates the use of glassed in locked bulletin boards. The Election Officer believes, however, that because the agreement includes a stipulation by Vons that the key to the bulletin board will be readily accessible to employees for the purpose of posting, that the glassed in board provides the best campaign access for employees in that their literature will be secured, and not subject to removal, defacement or being covered over.

The Election Officer additionally notes that the principal concern of the protest as originally filed by Mr. Moerler was the removal and covering over of his material by persons other than himself or his campaign. This agreement which provides that his material will be protected by a secured bulletin board as well as the notice and direction to all agents of the employer and the Union to refrain from interfering with campaign literature is a most direct and effective remedy to sufficiently provide security for Mr. Moerler's campaign postings. The Election Officer notes additionally that Local 63 agrees that job bidding information as well as other Local Union business will now be confined exclusively to the Union board. Thus, the issue of availability of space on the bulletin board for campaign purposes has also been remedied by the foregoing agreements. The agreement addresses the protestor's posting access rights in all respects: security, availability, and propriety of allocated space.

For all of these reasons, these protests are considered by the Election Officer to be 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

Gerald Moerler
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& 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/mca

cc: **Frederick B Lacey, Independent Administrator**
Geraldine L Leshin, Regional Coordinator

NOTICE TO ALL MEMBERS OF IBT LOCAL UNION 63

1. You have the right to participate in campaign activities on behalf of any candidates for delegate or alternate delegate to the IBT International Convention.
2. You have the right to participate in campaign activities on behalf of any candidates for International Office in the IBT.
3. You have the right to post campaign materials on the employee bulletin board in the Drivers' Room at the Vons Company, Inc. (herein, Vons) site in Santa Fe Springs, California *And El Monte*
4. Neither Local Union 63, nor Vons, will interfere with the exercise of any rights of IBT members set forth in the *Rules for the IBT International Union Delegate and Officer Election*.
5. Local 63 directs that none of its Stewards, Business Agents or its other employees remove, alter, cover over or deface any campaign material at Vons' above referred to site. Local 63 requests that none of its members remove, alter, cover over or deface any campaign material at the above referred to site. Also, Local 63 directs its Stewards, Business Agents and other employees not to post anything concerning official union business on the employee bulletin board in or around the Drivers Rooms in Santa Fe Springs or El Monte, California.
6. Vons directs that none of its supervisors or other employees remove, alter, cover over or deface any campaign material -- except for certain of Vons' representatives, who shall be given authority by Vons to remove campaign material at the request of a representative of the group that posted that campaign material or after a period of thirty calendar days from the date of posting. Also, Vons directs its supervisors and other employees, who are not represented by the Teamsters Union -- not to post anything on the employee bulletin board in or around the Drivers' Rooms in Santa Fe Springs or El Monte, California.

Robert Marciel, Secretary-Treasurer, Local Union 63

, Vons

This is an official notice and must remain posted for thirty consecutive days from the day of the posting and must not be altered, defaced or covered by any other material.

Prepared and approved by Michael H. Holland, Election Officer, on February 5, 1991

IN RE:

GERALD MOERLER

and

ROBERT MARCIEL
IBT LOCAL UNION NO. 63

and

VONS COMPANIES, INC.

91 - Elec. App. - 75 (SA)

DECISION OF THE
INDEPENDENT ADMINISTRATOR

XMH

This matter arises out of an appeal from a February 8, 1991, decision of the Election Officer in Case Nos. P-211-LU63-CLA and P-414-LU63-CLA. A hearing was conducted before me on February 15, 1991. Entering an in-person appearance was Susan Jennik, attorney for the Complainant. Entering appearances by way of teleconference were: John J. Sullivan, for the Election Officer; Geraldine Leshin, the Regional Coordinator, and her Adjunct, Gerry Fellman; Robert Vogel, attorney for Local Union 63; Ted Harrison, the attorney for the Vons Companies, Inc.; and Gerald Moerler, the Complainant.

At issue are various practices concerning the use of the employee bulletin boards at two facilities of the Vons Companies, Inc. -- the Santa Fe facility and the El Monte facility. In his original protest, Mr. Moerler, a member of Local 63 and a candidate for delegate to the 1991 IBT International Convention, alleged that the Vons Companies and Local 63 violated the Rules For The IBT

International Union Delegate And Office Election (the "Election Rules") in that: (1) a shop steward covered Mr. Moerler's campaign literature which was posted on an employee bulletin board at the Santa Fe facility with job bidding information; (2) another shop steward both removed and covered up campaign information from the employee bulletin board at the Santa Fe facility; and (3) two other supervisors prohibited the use of the employee bulletin board at the Santa Fe facility for campaign purposes. Mr. Moerler also contended that the bulletin board at the Santa Fe facility is too small and that the Union bulletin board is in a poor location. Mr. Moerler further complained that at the El Monte facility, it is required that campaign literature be removed within two weeks after the date of posting. Furthermore, Mr. Moerler protested the fact that the employee bulletin board at the El Monte facility has been enclosed with glass and locked so that he could not post material without the approval of supervisors. Mr. Moerler also protested the removal of material posted by members of Teamsters for a Democratic Union and supporters of Ron Carey, a candidate for International President, at the El Monte facility.

Wishing to resolve the matter through voluntary settlement, the Vons Companies and the Local entered into a settlement agreement with the Election Officer which provided in relevant part as follows:

- Vons shall install, at its own expense, a glass-covered, locked employee bulletin board in the drivers' room in the facilities at Santa Fe Springs and El Monte and shall make an employee available at all times until the conclusion of the election for posting of campaign materials on the board;

- Vons shall also provide a union bulletin board in the same rooms;

- Local 62 shall place a notice on the union bulletin board (1) informing members of their right to participate in campaign activities and to post campaign materials on the employee bulletin board, and (2) directing its stewards and other employees not to remove or cover over any material thus posted and to refrain from posting official union business on that board; and

- Vons Company shall direct its supervisors and other employees not to remove or cover over campaign material unless it remained on the board for more than 30 days.

Mr. Moerler then objected to the terms of the settlement agreement. Mr. Moerler specifically objected to the bulletin boards being enclosed in glass. It is contended that this will chill the free use of the bulletin boards in that a supervisor must first be contacted before a member can post material. Thus, it is suggested, supervisors will learn who posted which material. Mr. Moerler also took exception to the 30-day time limitation, arguing that material should remain posted as long as a member wants it posted. Mr. Moerler also suggested that the size of the bulletin board at the Santa Fe facility is approximately 10% smaller than the one previously available.

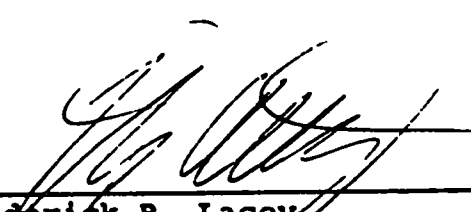
The Election Officer did not find merit in Mr. Moerler's objections to the settlement and neither do I. As explained by the Election Officer in his Summary:

The primary problem with respect to the employee bulletin board prior to the settlement was the easy opportunity it afforded for removal and covering campaign postings with other material. A further problem related to an alleged lack of space due to the utilization of the board for official Union or company notices. The settlement agreement provided for the placement elsewhere of official company or union communications, thereby freeing up more space for campaign material. At the same

time, the agreement specifically enjoined company and union representatives from removing or concealing current campaign material in the future. As a precaution to ensure that campaign material remained posted and visible on the board, the parties agreed to install glass-encased boards that could be kept locked. However, the parties addressed Mr. Moerler's concern that a locked board has served in the past to deny him access: they provided for an employee to be available at all times to open the board to allow posting of material.

In short, the settlement agreement addressed Mr. Moerler's original concerns. While the procedures agreed to may be subject to abuse, if Mr. Moerler, or any other member of Local 63, find that the terms of the settlement agreement are not being complied with, they may utilize the protest procedure to bring their concerns to the Election Officer's attention.

Accordingly, the Election Officer's approval of the settlement agreement is affirmed and Mr. Moerler's protest is dismissed. Just as the Election Officer did, I too wish to commend the parties for their willingness and ability to reach a satisfactory voluntary resolution of this dispute.



Frederick B. Lacey
Independent Administrator
By: Stuart Alderoty, Designee

Dated: February 19, 1991.