



OFFICE OF THE ELECTION OFFICER
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Michael H. Holland
Election Officer

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February 13, 1991

VIA UPS OVERNIGHT

Vincent McGee
Gover Road
Millbury, MA 01527

Ernest R. Tusino
Secretary-Treasurer
IBT Local Union 170
805 Millbury Street
Worcester, MA 01420

United Parcel Service
Attn Labor Relations Dept
1700 W Park Drive
Westborough, MA 01581

Re: Election Office Case No. P-429-LU170-ENG

Gentlemen:

A pre-election protest has been filed pursuant to Article XI of the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("*Rules*"). The complainant, Vincent McGee, is a candidate for delegate to the 1991 IBT International Convention. The protest alleges that the Employer removed candidate literature from the glass-enclosed Union bulletin board at McGee's work site.

Mr McGee is both a candidate for delegate and one of two stewards at his work facility. Each steward has a key to the bulletin board and representatives of management also have a key. On January 28, 1991, Mr McGee placed literature on the bulletin board supporting a candidate for IBT International General President. The next day, he found that the literature had been removed and had been replaced by a Company notice entitled "No Solicitation."

The Election Officer investigation revealed that this UPS facility contained several bulletin boards, three of which are glassed and locked and three of which are not. The latter three are properly defined as "general purpose" bulletin boards. The procedure for using these glassed bulletin boards is for employees to ask stewards to post literature. McGee stated that he would post anything he was asked to, including literature about the campaign. McGee also stated that he had had no requests to post campaign literature.

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The Company has told the Union that material can be posted inside the glassed bulletin boards only if it concerns official Union business, as indicated by the letterhead of the literature. When a Union Pension Group took the Local Union to court over pension benefits, however, the Company did not remove literature by the group from the board. The Company has also allowed TDU literature to be remain posted. Three years ago, however, the Company removed literature related to a Local Union election campaign.

Under the *Rules*, Union members retain their "pre-existing rights to use employer or Union bulletin boards for campaign activity." Article VIII, Section 10(d) of the *Rules*. Among such pre-existing rights is the right to post campaign material on general purpose bulletin boards, that is, on bulletin boards that have historically been used for postings other than or in addition to official company and Union notices.

The bulletin board under review here is by the terms of the collective bargaining agreement an official, not general purpose, board. The evidence herein does not prove that the bulletin board in question has become a "general purpose" bulletin board open to all kinds of literature and postings by past practice. Prior general purpose postings have been limited. There was no evidence that the bulletin board has been previously used for campaign activity - the only evidence is to the contrary, because literature related to Local Union Elections has been removed in the past. The evidence did not show that the board in question had the earmarks of a "general purpose" bulletin board, e g postings of personal notices, etc. Instead, the evidence is more consistent with the holding that the board is one reserved for official Union business and that employees understand that fact and use the three general purpose bulletin boards, which are available for campaigning.

Further, the existence at the facility of three admittedly general purpose bulletin boards permits all IBT members access for campaign postings even if not on the three glassed bulletin boards at issue here.

Accordingly, the investigation by the Election Officer did not adduce sufficient evidence. For all of the foregoing reasons, 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 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

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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,

A handwritten signature in black ink, appearing to read "Michael H. Holland". The signature is written in a cursive, somewhat stylized font.

Michael H. Holland

MHH/mca

cc: Frederick B. Lacey, Independent Administrator
Elizabeth A. Rodgers, Regional Coordinator
Martin Wald