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Michael H Holland
Election Officer

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February 22, 1991

VIA UPS OVERNIGHT

Neal Henderson
36 Waverly Street
Brockton MA 02401 3408

Joseph Conlon
Secretary Treasurer
IBT Local Union 25
544 Main St
Boston, MA 02129

John Reardon
c/o IBT Local Union 25
544 Main St
Boston, MA 02129

William J McCarthy
President
IBT Local Union 25
544 Main St
Boston, MA 02129

Joseph Laffey
c/o IBT Local Union 25
544 Main St
Boston, MA 02129

Re Election Office Case No P-460-LU25-ENG

Gentlemen

A pre-election protest was filed pursuant to the *Rules for the IBT International Union Delegate and Officer Election* revised August 1 1990 (Rules) ~~The~~ Complainant Neal Henderson alleges that two candidates for delegate on an opposing slate, Joseph Laffey and John Reardon, ~~removed campaign literature that he had placed on tables in the northwest flight attendant's lounge on February 7, 1991~~ The Election Officer conducted an investigation which disclosed the following

Complainant Neal Henderson arrived at the Northwest Airlines Flight Attendant's lounge at approximately 11 30 a m on February 7, 1991 At this time, he posted campaign literature promoting his Right to Vote Slate on a bulletin board and distributed about 25 copies of his materials on tables in the flight attendant's lounge In doing this he was escorted the employer's representative, Kim Tamara, in flight services Assistant Supervisor She gave him the key to the locked bulletin board and escorted him to the lounge The materials consisted of palm cards, containing written material

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on both sides. Henderson then left the lounge and the facility and returned home. As he was leaving, he saw Joseph Laffey and John (Jackie) Reardon entering the facility. These individuals are trustees of the Local Union and candidates for delegate on the "McCarthy/Rank and File Slate."

After his arrival at home at about 12:40 p.m., Henderson called Paul Givens, the in-flight Service Manager for Northwest because of his concern as to whether his campaign literature might have been removed by Laffey and Reardon. Givens was unavailable but Henderson talked with Ms. Tamara and inquired of her as to whether his literature was still in the lounge. She advised Henderson that she did not see any. Both Messrs. Laffey and Reardon were questioned by Adjunct Regional Coordinator Janet Linder and they categorically denied to her that they had touched or removed any of Henderson's literature from the lounge.

The investigation also included discussion with Paul Givens who confirmed that he had met with Reardon and Laffey on a grievance matter unrelated to the campaign shortly after Henderson had left the premises. Mr. Givens further advised that Laffey and Reardon asked him if anybody from the "Right to Vote" slate had been there. Givens responded yes. Laffey and Reardon then asked what had been done and Givens told them that campaign materials had been posted on the bulletin board and put in the attendant's lounge. He further advised them of the company's desire not to get involved or take sides and that both sides would have access to the bulletin board in the lounge area to distribute materials.

The investigation also included conversations with Kim Tamara who reported that she had had a conversation with a flight attendant named Craig Whipple who told her that he had seen two men come into the lounge while he was present and remove "some cards" from the lounge. The investigation was delayed due to the unavailability of Craig Whipple.

However, on February 20, Craig Whipple called Adjunct Regional Coordinator Janet Linder. He reported that he was present in the lounge when Neal Henderson came in and distributed his literature. He saw Henderson put five or six cards on four or five different tables in the lounge. Shortly after Henderson had left, he then observed two men come in and also distribute campaign material in the area. Specifically, he saw one of them open the bulletin board and post material. Both men came into the lounge and put "Rank and File Slate" pamphlets on the tables in the lounge. Whipple did not know the men by name but knew them to be Local Union representatives. Whipple stated that he saw the man who posted the material on the bulletin board take all of Henderson's "Right to Vote" cards (5 or 6) off one of the tables and put them in his pocket. Whipple then left the lounge area and went to get a pizza. He returned about 30 - 45 minutes later and noticed that all of the cards on all of the tables were gone. The "Rank and File" slate campaign material left by the two men remained on the tables.

At this time, he encountered Kim Tamara and remarked to her that he thought the two guys had been rude and were "jerks" because they had taken the other guy's

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literature. Kim Tamara confirms that at this time the campaign literature for Reardon's "Rank and File" slate was still on tables in the lounge but that the pamphlets for Henderson's "Right to Vote" slate were gone.

Both Reardon and Laffey acknowledge that they were at Northwest Airlines on February 7 for a meeting with Givens which they estimate took place between 12:00 and 1:00 p.m. There is no dispute that material for the "Rank and File" slate was distributed both on the bulletin board and in the lounge by Reardon and Laffey. Both Laffey and Reardon were still at the facility when Henderson called and expressed his concern as to the removal of his literature.

After Whipple's interview, Givens was re-interviewed by Janet Linder. Givens estimated that his meetings with Reardon and Laffey extended for 1 1/2 to two hours. Before they left, Givens learned of Henderson's call and his concern for the removal of his literature from the lounge. Givens asked Reardon and Laffey if they had taken any of the material. They both denied doing so. A discussion ensued as to campaigning during which Givens expressed his view that he didn't want the workplace to be a battleground and that all the contending groups had a right to distribute campaign materials on the bulletin board and in the lounge area within one half hour after the end of his meeting with Laffey and Reardon. Later in the afternoon, Givens personally checked the bulletin boards and the lounge area and at that time observed that materials for the "Right to Work" slate as well as the "Rank and File" slate were in the lounge area.

It is the basic purpose of the *Rules* to safeguard rights of all candidates to freely and fully exercise their political rights to campaign. Article VIII, § 10 (d) expressly prohibits any restrictions upon "candidates' or members' pre-existing rights to solicit support, distribute leaflets or literature . . . on employer or Union premises." There is no question in this case that both the "Right to Vote" slate and the "Rank and File" slate had pre-existing rights to utilize the Northwest bulletin board and lounge area to post and distribute campaign literature. There is also no question that any attempt on the part of a candidate to remove all or a substantial part of distributed campaign material to prevent the literature from reaching its intended readers is a violation of the *Rules*. Such tactics should offend anyone's sense of fair play and are counterproductive. In order to avoid the fray employers may be moved to attempt to restrict access to bulletin boards and work areas for the distribution of campaign literature to all candidates.

In this case, there is conflict between the observations of witnesses Craig Whipple and the categorical denials of Laffey and Reardon which are not easily resolved. It is clear, however, based on the observations of Paul Givens that when he checked the lounge area shortly after the conclusion of his meeting with Reardon and Laffey, "Right to Vote" cards were again present on the tables and the lounge area. Thus, even if the cards had been removed from the lounge area by Laffey and Reardon as alleged, any harm to Complainant Henderson's campaign was minimized by their return within approximately two hours.

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Nevertheless, allegations of conduct alleged here are serious and any repetition of the circumstances presented here in the future will be very closely scrutinized. With this cautionary note, no violation will be found on the evidence adduced here, and the protest is DENIED. But in order to ensure that all members are fully aware of their rights and obligations under the *Rules*, the Election Officer directs the Local Union to reproduce and post the attached notice on all Union bulletin boards at the subject Northwest Airlines facility and on all bulletin boards in all Local 25 halls and facilities.

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/mca

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

**NOTICE TO TEAMSTER MEMBERS
FROM IBT LOCAL UNION 25**

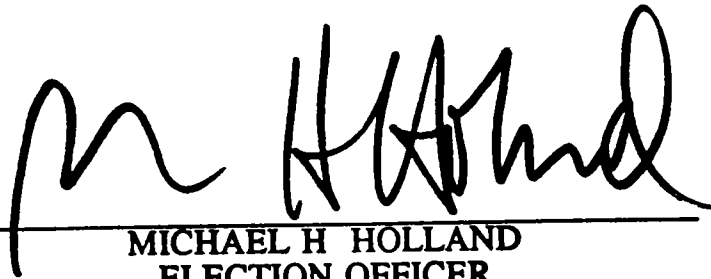
You have the right to participate in Campaign activities on behalf of candidates for delegate and alternate delegate to the 1991 IBT Convention.

You have the right to participate in campaign activities on behalf of candidates for the International Union office in the IBT.

Each candidate has the right to equal access to facilities for the posting or distribution of campaign literature when such facilities are made available to any candidate for such purposes.

It is a violation of your campaign rights for any candidate or any person acting for a candidate to remove all or any substantial part of another candidate's campaign literature so that the literature does not reach intended readers

You have a right to file protests with the Election Officer Michael H Holland alleging a violation of these rights or any other rights set forth in the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("*Rules*")



A handwritten signature in black ink, appearing to read "M H Holland", is written over a horizontal line.

**MICHAEL H HOLLAND
ELECTION OFFICER**

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

IN RE:

NEAL HENDERSON,

Complainant,

and

JOHN REARDON and
JOSEPH LAFFEY,

Respondents.

91 - Elec. App. - 83 (SA)

DECISION OF THE
INDEPENDENT ADMINISTRATOR

This matter arises out of an appeal from a February 22, 1991, decision of the Election Officer in Case No. [REDACTED]. A hearing was held before me by way of teleconference on March 1, 1991, at which the following persons were heard: the complainant, Neal Henderson; the respondents, John Reardon and Joseph Laffey; John J. Sullivan, on behalf of the Election Officer; the Regional Coordinator, Elizabeth Rodgers; and the Adjunct Regional Coordinator, Janet Linder.

Mr. Henderson is a member of Local Union 25 and is a candidate for delegate to the 1991 IBT International Convention running on the "Right To Vote Slate." Messrs. Reardon and Laffey are trustees of Local Union 25 and are candidates for delegate running on the "McCarthy/Rank and File Slate."

At 11:30 a.m. on February 7, 1991, Mr. Henderson arrived at Northwest Airlines to distribute his campaign literature. Mr. Henderson was escorted to the Flight Attendant's Lounge by a Northwest Airline supervisor. Mr. Henderson posted two of his three-inch by five-inch "palm cards" on the locked employee

bulletin board, having received a key from a Northwest supervisor. In addition, Mr. Henderson left approximately twenty-five cards on various tables in the lounge. While he was leaving the facility, Mr. Henderson observed Messrs. Reardon and Laffey arriving. Messrs. Reardon and Laffey were at the Northwest facility for a meeting relating to a grievance matter unrelated to the campaign. The meeting lasted between one and two hours.

After arriving home from his visit to Northwest at approximately 12:40 p.m., Mr. Henderson called the Northwest facility because he was concerned that Messrs. Reardon and Laffey might have removed his literature. When the supervisor checked the Flight Attendant's Lounge to see if Mr. Henderson's literature was there, it was revealed that the cards had been removed from the locked employee bulletin board and some cards were also removed from the tables in the lounge.

Before the end of the grievance meeting with Messrs. Reardon and Laffey, Northwest manager, Paul Givens, learned of Mr. Henderson's call and his concern regarding his literature. Mr. Givens asked Messrs. Reardon and Laffey if they removed any campaign literature from the lounge and they both denied doing so. Mr. Givens told Messrs. Reardon and Laffey that he did not want the workplace to become a battleground between the competing slates and that all the contending groups had a right to distribute campaign materials in non-work areas.

Approximately one-half hour after the completion of his meeting with Mr. Reardon and Laffey, Mr. Givens checked the bulletin board and the table in the Flight Attendant's Lounge and observed the presence of both "Right to Work" and "Rank and File" campaign material.

Faced with consistent denials by Messrs. Reardon and Laffey that they removed any literature from the Lounge and faced with only suspicion and circumstantial evidence regarding their involvement in the removal of the literature, the Election Officer determined that he could not conclude that Messrs. Reardon and Laffey were responsible.

In addition, the Election Officer concluded that the harm to Mr. Henderson and his campaign was at best de minimis. Only a small portion, 25%-30%, of the literature Henderson placed on the lounge tables for distribution was removed, the remainder remained available for the membership. The posted campaign materials were reposted on the bulletin board within one or two hours after their removal. Mr. Givens underscored the Election Officer's position that removal of an opponent's campaign literature would not be tolerated.

Under the circumstances of this case, the Election Officer found it unnecessary to resolve the credibility dispute in order to effectuate the purpose underlying the Rules For The IBT International Union Delegate And Office Election (the "Election Rules"). While there was no finding of an Election Rules violation,

the Election Officer deemed it appropriate to exercise his authority under the Election Rules to inform the IBT members of Local Union 25 of their rights under the Election Rules to campaign and post materials. Therefore, the Election Officer caused to be posted a notice, over his signature, on all Union bulletin boards at Northwest and all Local Union offices. In his notice, the Election Officer addressed, in general terms, the rights of members to campaign. No mention was made of this particular incident.

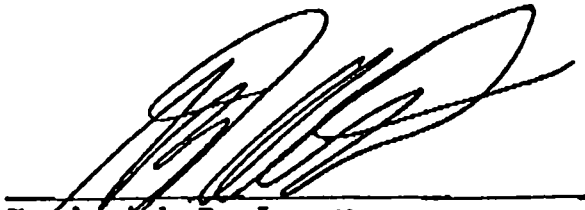
In addition, the Election Officer cautioned all parties that he would carefully consider any future allegations of interference with campaign activity and would impose appropriate sanction for any such violations.

At the hearing before me, Mr. Henderson objected to the remedy arguing that it is not sufficient to cure what he sees as a general practice at Northwest of removing campaign material. When asked why he had not filed other protests regarding this alleged general practice, Mr. Henderson indicated that in the past he had no "proof" as to who removed the material. Here, however, he had a strong suspicion and circumstantial evidence.

Mr. Sullivan, on behalf of the Election Officer, affirmed Mr. Henderson's right to file a protest notwithstanding whether he has "proof" as to who may have removed material. If Mr. Henderson feels that a pattern of removing campaign material has developed at the Northwest facilities, a protest should be filed with the Election Officer accordingly. The Election Officer will

investigate that protest and consider whether the incident which is the subject of this dispute is part of that pattern. A decision by the Election Officer will then issue. The Election Officer's ruling in this case in no way condones or encourages the removal of posted or distributed campaign material.

Accordingly, the ruling of the Election Officer is affirmed in all respects.



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

Dated: March 4, 1991.