



OFFICE OF THE ELECTION OFFICER
% INTERNATIONAL BROTHERHOOD OF TEAMSTERS
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Washington, DC 20001
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Michael H Holland
Election Officer

Chicago Office
% Cornfield and Feldman
343 South Dearborn Street
Chicago, IL 60604
(312) 922-2800

March 18, 1991

VIA UPS OVERNIGHT

Karen A Keys
TDU
Suite 612
2000 P St , N W
Washington, DC 20036

Jim H Guynn
President
IBT Local Union 171
2015 Melrose Ave , N W
Roanoke, Virginia 24017

Gary Shrader
3859 Meadowlark Rd , S W
Roanoke, Virginia 24018

Arkansas Best Freight
1819 Plantation Street, N E
Roanoke, Virginia 24012
Attn Franklin D Marcus

Re: Election Office Case No. P-533-LU171-MID

Gentlemen

A pre-election protest was filed in accordance with Article XI of the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("*Rules*") The protest was filed by Gary Shrader who is a member of Local 171 In his protest, Gary Shrader alleges that his employer, Arkansas Best Freight ("*ABF*") prohibited him from distributing campaign literature at his worksite in non-work areas during non-work times, in violation of Article VIII of the *Rules*

The investigation conducted by the Election Officer revealed the following facts Mr Shrader is a member of Local 171 and was working at ABF until February 21, 1991¹ Local 171's delegate and alternate delegate election was conducted by mail ballots and ballots were counted on March 1, 1991 However, Mr Shrader's protest is

¹On February 21, two days after the instant protest was filed, Mr Shrader was discharged from the company That discharge is the subject of Election Officer Case No P-561-LU171-MID to be decided separately.

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not moot because of the upcoming election for International Officers which will throughout all the IBT Locals involve campaigning

Complainant alleges through his lawyer, Karen A Keys, counsel for Teamsters for a Democratic Union (TDU), that his employer prohibited him from distributing campaign literature in non-work areas during non-work times at the ABF terminal in Roanoke, Virginia. The investigation revealed that the company management at this location is in fact prohibiting any type of campaigning on the premises. Such policy is reflected in a memo issued by Manager Franklin B Marcus which states that ABF "will not allow any form of campaigning at this location, nor will we allow the prospective applicants to campaign on our premises. ABF must remain neutral." (Memo of February 8, 1991)

ABF's policy violates Article VIII, § 10 of the *Rules* which provides that all Union members retain the right to participate in campaign activities. The *Rules* further provide that "all IBT members have the right to campaign/talk to fellow members, hand out literature, pass petitions, and the like/in non-work areas of their employers' premises during non-work time. Neither the employer nor the Union can prevent such campaign activities. NLRB v. Magnavox, 415 USC 322 (1974), Eastex, Inc. v. NLRB, 437 US 556 (1978), District Glass 91 International Association of Machinists v NLRB, 814 F 2d 876 (2nd Cir 1987), NLRB v Methodist Hospital of Gary, Inc., 732 F 2d 43 (7th Cir 1984) (Advisory on Political Rights, Michael H Holland, Election Officer (December 28, 1990)). Since the evidence establishes that Mr Shradler was attempting to distribute campaign literature in non-work areas during non-work times, the company's interference with his activities violated Article VIII of the *Rules*. Accordingly, the protest is GRANTED

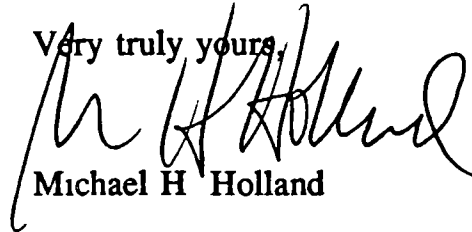
As a remedy, ABF is ordered to cease and desist from enforcing its policy against campaigning in non-work areas during non-work times for the remainder of the IBT International Officer Election and is further ordered to post the attached notice so advising the IBT members on all bulletin boards at its Roanoke facility. ABF shall file an affidavit within five days of its receipt of this decision indicating the steps it has taken to comply with this decision. ✓

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,

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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 style with a large, sweeping initial "M".

Michael H Holland

MHH/mca

cc Frederick B Lacey, Independent Administrator
Grant Crandall, Regional Coordinator
Melvin R Manning
Manning, Davis & Kirby
1108 Ross Building
801 East Main Street
Richmond, Virginia 23219

NOTICE TO TEAMSTER MEMBERS

You have the right to campaign in campaign activities on behalf of candidates for delegate and alternate delegate to the 1991 IBT International Convention

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

You have the right to campaign, talk to your fellow employees, hand out literature, and the like, in non-work areas during non-work times

Protests regarding *Rules* violations are to be filed with the Election Officer
Copies of the *Rules* regarding campaign and other election activities may be obtained from the Election Officer by calling his toll-free telephone number, 800-828-6496

Arkansas Best Freight

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