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March 15, 1991

VIA UPS OVERNIGHT

Michael Jordan
2415 Sandy Ridge Road
Dyer, Indiana 46311

Joe Lascola
Union Steward - Roadway, Inc
c/o Local 705
300 South Ashland Avenue
Chicago, Illinois 60607

Daniel Liguoris
Secretary-Treasurer
IBT Local Union 705
300 South Ashland Avenue
Chicago, Illinois 60607

Re: Election Office Case No. P-622-LU705-CHI

Gentlemen

A pre-election protest was filed in accordance with Article XI, Section 1 of the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("*Rules*") The complainant, Michael Jordan, alleges that Joe Lascola, Union steward from Local Union 705 campaigned on company time in violation of the *Rules*. Mr Jordan also alleges that Joe Lascola threatened and intimidated him in violation of his political rights under Article VIII of the *Rules*. Each of the claims will be reviewed below in separately numbered sections

I. Alleged Campaigning During Work Hours.

Mr Jordan alleges that Joe Lascola, who is a Local 705 Union steward at Roadway Express, campaigned during working hours in violation of the *Rules*. Mr Jordan is a member of Local 705 and is employed at Roadway Express. Mr Jordan is a candidate for delegate in Local 705's upcoming delegate election and is a member of the "Membership Slate". Mr Lascola is also a candidate for delegate in Local 705's upcoming delegate election and is a member of the "Liguoris Team Slate".

The investigation conducted by the Election Officer Adjunct Representative Deborah J. Schaaf discloses the following facts. On Thursday, February 28, at approximately 4:50 p.m., at the Roadway Express terminal in Chicago Heights, Illinois, a group of Roadway employees were "standing around" talking with Joe Lascola, who is a Local 705 steward at that facility. The employees were waiting for their shift to end at 5:00 p.m. Mr. Lascola told a story about some person sending a piece of derogatory campaign literature to a member of Mr. Liguoris' family. Mr. Liguoris is the Secretary-Treasurer of Local 705 and is a candidate on the "Liguoris Team Slate." Mr. Lascola stated that he did not know who had sent the literature nor did he have any copies of it. At that point, Mr. Evenhouse, who is also a candidate for delegate on the "Membership Slate," told Mr. Lascola that he should stop campaigning, since he was on company time. The investigation disclosed that it was common practice for Roadway employees to be in the break-room talking during the last fifteen minutes of their shift. Article VIII, Section 10 of the *Rules* provides that

All union members retain the right to participate in campaign activities, including the right to run for office, to openly support or oppose any candidate, to aid or campaign for any candidate, and to make personal campaign contributions. No candidate or member may campaign during his or her working hours. Campaigning incidental to work is not, however, violative of this section. Further, campaigning during paid vacation, paid lunch-hours or breaks, or similar paid time off is also not violative of this section.

Rules, Article VIII, § 10, p. 58

Mr. Jordan maintains that the statements made by Mr. Lascola constitute campaigning within the meaning of the *Rules*. Conversely, Mr. Lascola answers that his statements do not constitute campaigning within the meaning of the *Rules* and that he was simply passing along information that he had received from another member. In support of his allegation, Mr. Lascola states that he did not mention his opponent's slate nor any of its candidates. It is not necessary to resolve this factual dispute in order to resolve this protest, since the evidence establishes that employees at Roadway are usually in the breakroom -- a non-work area -- and not working during the last fifteen minutes of their shift. Thus, assuming that the statements made by Mr. Lascola constituted campaigning within the meaning of the *Rules*, such campaigning was therefore, not violative of Article VIII, § 10 of the *Rules*. See also Advisory on Political Rights.

II. Allegations of Intimidation and Harassment By Local 705 Union Steward Joe Lascola.

Mr. Jordan also alleges that Mr. Lascola engaged in acts of intimidation which violated his political rights under Article VIII, § 10 of the *Rules*. Mr. Jordan states that he was approached by Mr. Lascola at the Roadway terminal, also on the 28th of

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February, and that Mr Lascola stated to him to "be careful " Mr Jordan replied, "What do you mean?" and Mr Lascola answered, "If I were you, I'd be careful, you're being used " Mr Lascola then began to walk away and said one last time, "Be careful " Mr Lascola was interviewed in reference to this allegation by Election Office Adjunct Representative, Deborah Schaaf Mr Lascola denied that he made such statements

The *Rules* provide that "all Union members have the right to participate in campaign activities, including the right to run for office, to openly support or oppose any candidate, or to aid or campaign for any candidate, or to make personal campaign contributions " The right to participate in campaign activities includes the right to be free from intimidation and harassment from other members, Union officials and employers It is not necessary to resolve the factual discrepancy between Mr Jordan's and Mr Lascola's version of the event because the facts as alleged by Mr Jordan are insufficient to support a finding that Mr Lascola's statements constituted a threat under the *Rules* The statements allegedly made by Mr Lascola were vague and do not predict or foreshadow any future harm which would be likely to occur because of Jordan's participation as a delegate candidate The statement, "Be careful you're being used" does not threaten Jordan with any physical harm, or loss of his job

Further, the evidence does not establish that Mr Jordan was prevented from engaging in any political or campaign activities as a result of Mr Lascola's statements There is no allegation of physical contact between Mr Lascola and Mr Jordan, before, during or after the statement Moreover, Mr Jordan told the Election Officer Representative that he did not feel physically threatened at the time that the statement was made

Based on the foregoing, the Election Officer concludes that the evidence does not support a finding that the *Rules* have been violated Accordingly, the above-described protest is DENIED ¹

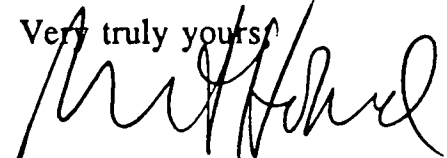
If any interested party is not satisfied with this determination, they may request a hearing before the Independent Administrator within twenty-four (24) hours of their receipt of this letter The parties are reminded that, absent extraordinary circumstances, no party may rely upon evidence that was not 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,

¹The Election Officer has ordered the Local in Election Office Case No P-498-LU705-CHI to post a notice signed by him at the Bedford Park Roadway facility informing all IBT members of their rights to engage in campaign activities under and in accordance with Article VIII, § 10 (d) of the *Rules* That notice will notify all members of their rights in connection with the type of *Rules* violations alleged here

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as well as upon the Election Officer, IBT, 25 Louisiana Avenue, N W , Washington,
D C 20001, Facsimile (220) 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
Julie E Hamos, Regional Coordinator