



OFFICE OF THE ELECTION OFFICER
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Michael H Holland
Election Officer

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March 15, 1991

VIA UPS OVERNIGHT

Al Walker
11436 Geneva Rd
Cincinnati, OH 45240

Bill Wright
6909 Kyles Station Rd
Middletown, OH 45044

Michael H Dickens
President
IBT Local Union 100
2100 Oak Rd
Cincinnati, OH 45241

UPS
c/o Mike Vercheak
500 Gest St
Cincinnati, OH 45203

Re: Election Office Case No. P-644-LU100-SCE

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*") by Mr Al Walker and Mr Bill Wright. The Complainants allege that Mike Vercheak, Labor Relations Manager from UPS, threatened them with disciplinary action if they attempted to campaign inside the Florence, Kentucky UPS facility. The complainants allege that Mr Vercheak's warning constituted a threat in violation of Article VIII of the *Rules*.

The investigation conducted by the Election Officer representative disclosed the following facts. Both Mr Walker and Mr Wright are candidates in the upcoming delegate election in Local 100. Mr Walker and Mr Wright are employed at the UPS facility in Sharonville, Ohio, and do not work out of the UPS hub in Florence, Kentucky. On March 6, 1991, Mr Wright and Mr Walker went to the UPS hub in Florence, Kentucky to distribute campaign literature. Once they arrived at the facility, they went into the building and began talking to members. As soon as UPS management representatives discovered that they were campaigning inside the facility, they were asked to leave the building. Mr Walker and Mr Wright filed a protest over the company's

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refusal to permit campaigning inside the facility for members not working at the UPS facility in Florence. The Election Officer issued a decision in that case, P-635-LU100-SCE on March 12, 1991 and ruled that Mr Walker and Mr Wright were not entitled to campaign inside the facility, and that the company policy restricting campaigning inside the UPS facility to members employed at that facility did not violate the *Rules*

Mr Wright and Mr Walker state that on Friday, March 8, 1991, they were approached by Mike Vercheak, from UPS, as they entered the Local Union hall. The Complainants stated that Mr Vercheak told that he would discipline them if they campaigned inside the UPS Florence facility again. Mr Walker and Mr Wright object to Mike Vercheak's warning and claim that Vercheak's warning constitutes a threat in violation of the *Rules*

The above described facts do not state a violation of the *Rules*. As explained in my decision in P-635-LU100-SCE, neither Mr Walker nor Mr Wright are entitled to campaign inside the Florence, Kentucky facility, since they are not employed at that worksite¹. The *Rules* provide that employers may restrict campaigning access inside employer facilities to members who are employed by other employers or by the same employer at a different location. Since neither Mr Walker nor Mr Wright were engaged in conduct protected by the *Rules* when they visited the Florence, Kentucky facility, the Election Officer has no jurisdiction to review the question of whether UPS may properly discipline Mr Walker and Mr Wright for alleged violations of company rules. The question of whether the company may properly discipline members for violation of the company rules restricting access inside the facility depends on the terms of the collective bargaining agreement entered into between UPS and Local 100. Absent evidence that Mr Walker or Mr Wright are being discriminated against by UPS in the exercise of their political rights under Article VIII of the *Rules* or are being treated differently than other members not employed at the Florence facility, the Election Officer has no authority to resolve this protest. Based on my decision in P-635-LU100-SCE and based on the above stated reasons, the protest is DENIED.

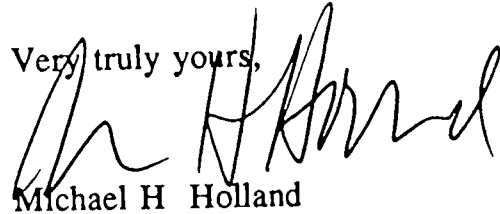
If any interested party is not satisfied with this determination, they may request a hearing before the Independent Administrator within twenty-four (24) hours of their receipt of this letter. The parties are reminded that, absent extraordinary circumstances, no party may rely upon evidence that was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

¹In P-635-LU100-SCE, the Election Officer ruled that "since there is no allegation, nor does the evidence reveal that any other UPS employees not employed at the Florence hub had been granted access to campaign inside the UPS facility at the Florence, Kentucky facility, the complainants' campaigning rights were not violated by UPS on March 6, 1991. Accordingly, the above described protest is denied." (Decision at p 2)

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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,

A handwritten signature in black ink, appearing to read "Michael H. Holland". The signature is fluid and cursive, with the first name "Michael" and last name "Holland" clearly distinguishable.

Michael H Holland

MHH/mca

cc Frederick B Lacey, Independent Administrator
Peggy A Hillman, Regional Coordinator

Martin Wald, Esq
Schnader, Harrison, Segal & Lewis
Suite 3600
1600 Market Street
Philadelphia, PA 19103
(Fax 215-751-2205)