



OFFICE OF THE ELECTION OFFICER
% INTERNATIONAL BROTHERHOOD OF TEAMSTERS
25 Louisiana Avenue, NW
Washington, DC 20001

Michael H. Holland
Election Officer

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April 4, 1991

VIA UPS OVERNIGHT

John F. Youngermann
2033 Willow Trail
St. Charles, MO 63303

Ron F. Gamache
Secretary-Treasurer
IBT Local Union 688
300 South Grand
St. Louis, MO 63103

Schnucks Market Inc
ATTN: James Meyer
12921 Enterprise Way
Bridgeton, MO 63044

Schnucks Markets Inc
ATTN: Col Pat Diamond
12921 Enterprise Way
Bridgeton, MO 63044

Re: Election Office Case No P-663-LU688-MOI

Gentlemen

A pre-election protest was filed pursuant to Article XI of the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("Rules"). In his protest, John Youngermann, a delegate candidate, alleges that he has been denied campaign access to Schnucks markets in violation of the *Rules*. Youngermann is not an employee of Schnucks.¹

The protest was investigated by Regional Coordinator Michael Gordon. The investigation discloses the following facts: On March 11, 1991, Youngermann commenced handbilling in the parking lot at Schnucks. James Meyer, the manager of the Perishable Distribution Center, told Youngermann that he would not be permitted to campaign in the parking lot, but that he could campaign near the guard shack, located on company property near the entrance to the parking lot. However, when Youngermann moved to the area of the guard shack, he was told by the supervisor of the guards that he had to move off the employer's property and into the public street in order to campaign.

¹Youngermann was a winning delegate candidate in this election. He does not allege and the Election Officer does not find, that the conduct investigated in this protest affected the outcome of the election.

The public street is a dead end street that leads only to Schnuck's driveway. There is a wide entrance from the street into the driveway and vehicles enter and exit the driveway quickly. There is no stop sign controlling the flow of traffic between the driveway and the street, nor is there a sidewalk or other public area bordering or intersecting the driveway.

The guard shack is located some 60 or 70 yards beyond the street and driveway intersection but outside the fenced parking lot. The guard shack is where entering and exiting vehicles slow down, it is the point of traffic control. Youngermann seeks access to the guard shack area outside the parking lot. Schnucks has informed the Election Officer's representative that IBT members employed by it can post and distribute campaign literature on the property but that campaigning by IBT members not so employed can only be done in the public street.

In fact, IBT members not employed by Schnucks also have certain limited access rights under the *Rules*. Where the location of the employer's facility prevents face to face contact with the IBT members who work there, IBT members not employed by the employer can campaign in non-work areas outside of the facility in areas generally open to the public such as the parking lot or outside the entrance or entrance gates to the facility. Advisory Regarding Political Rights citing Lechmere v. NLRB, 914 F 2d 313 (1st Cir 1990) Jean Country, 291 NLRB No 4 (1988). IBT members who are not employed by the employer may have greater access rights if the employer has permitted such access in the past. There is no allegation or evidence in this case of such a past practice.

The Election Officer concludes that in this case IBT members not employed by Schnucks have campaign access rights to the area around the guard shack but outside the parking lot. The requirement by Schnucks that these members stand in the street to campaign creates a safety hazard for the IBT member who is campaigning as well as the drivers who are entering the facility. Moreover, Schnucks has advanced no security or safety reason to deny such access to the area around the guard shack but outside the fenced parking lot.

Based on the foregoing, the protest is GRANTED ²

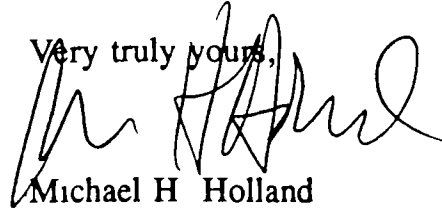
If any interested party is not satisfied with this determination, they may request a hearing before the Independent Administrator within twenty-four (24) hours of their receipt of this letter. The parties are reminded that, absent extraordinary circumstances, no party may rely upon evidence that was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

²Although the delegate election is concluded in Local 688, the campaign for International Officer elections will continue throughout 1991. Therefore, the protest is not moot.

John F Youngermann
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& 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,

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
Michael D Gordon, Regional Coordinator