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March 27, 1991

**VIA UPS OVERNIGHT**

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c/o Local Union 896  
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Room 414  
Los Angeles, CA 90015

Charles D Roberts  
Secretary-Treasurer  
IBT Local Union 896  
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Ed A Russell, Jr  
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Ms Chris Schweitzer  
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1818 Leewood St  
W Covina, CA 91790

Miller Brewery  
15801 E First St  
Irwindale, CA 91706

**Re: Election Office Case No. P-665-LU896-CLA**

Gentlemen

A pre-election protest has been timely 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, Craig K Yabuta, alleges that Miller Brewery has denied him campaign access to IBT members employed at its Azusa, California facility, contrary to the *Rules* Yabuta is not an employee of Miller Brewery

The protest was investigated by Adjunct Coordinator, W C Demers The investigation discloses the following facts The Brewery is located at the end of a long private road The entrance to the private access road is via a public highway The private access road ends at the employee parking lot, and the brewery facility is beyond the parking lot There are no sidewalks or grassy areas bordering the public highway which would permit IBT members not employed by Miller, from engaging in campaign activities other than on Miller's private property

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The *Rules* provide that all IBT members have the right to campaign -- talk to Yellow members, hand out literature, pass petitions, and the like -- in non-work areas of their employer's premises during non-work time. Neither the employer nor the Union can prevent such campaign activities. See Advisory Regarding Political Rights, citing to NLRB v. Magnavox, 415 U S 322 (1974), Eastex, Inc. v. NLRB, 437 U S 556 (1978)

IBT members who are employed by a different employer or at a different location of the same employer also have certain rights, although more limited, to engage in campaign activities at the employer's premises. Since the right to engage in campaign activity is protected by substantive federal law, as well as the *Rules*, the employer's rights of private property must accommodate the right to engage in campaign activities. Jean Country, 291 NLRB No 4 (1988)

Where the location of the employer's facility prevents face to face contact with the IBT members who work there, other than on the employer's private property, private property rights must yield to a limited right of access, absent a showing of safety or security reasons that such access should not be granted. In such situations, IBT members can campaign in non-work areas outside of the plant such as the parking lot or outside the entrance or entrance gates to the facility. In Re. Robert McGinnis and IBT Local Union 710, Yellow Freight Systems, Inc., 91-Elec App -43 (January 23, 1991) affirmed March 4, 1991, United States District Court for the Southern District of New York, written decision pending

The Election Officer concludes in this case that there is no area located outside the brewery's parking lot where IBT members not employed by it could engage in campaign activity.<sup>1</sup> The employer has advanced no security or safety rationale of its own for denying access to the parking lot

The *Rules* have been violated. The protest is GRANTED. To remedy the violation, the Election Officer directs Miller to permit IBT members not employed at its Azusa, California facility to engage in campaign activities in the parking lot located at such facility

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)

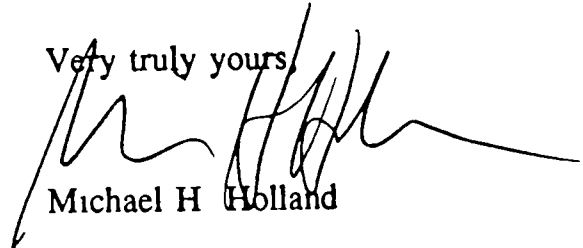
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<sup>1</sup>The Election Officer concludes that access to the private road is insufficient. Campaigning on a thoroughfare creates a potential for both safety and traffic problems, particularly if campaigning occurs -- as is likely -- during shift change periods when many members are attempting simultaneously to enter or exit

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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", written over the typed name below.

Michael H Holland

MHH/mca

cc Frederick B Lacey, Independent Administrator  
Geraldine L Leshin, Regional Coordinator

Arthur Sibergeld (via Facsimile)  
Jeff Koepke (via Facsimile)