

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 9, 1991

VIA UPS OVERNIGHT

Ken Mee
42356 Greenbrier Park Dr
Fremont, CA 94538

Mario Gullo
Secretary-Treasurer
IBT Local Union 287
1452 N 4th St
San Jose, CA 95112

Joe Hobby
c/o Kaiser Cement Corp
24001 Stevens Creek Blvd
Cupertino, CA 95014

Re: Election Office Case No. P-695-LU287-CSF

Gentlemen

A pre-election protest was 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, Ken Mee alleges that he has been denied campaign access to the facilities of Kaiser Cement Corporation in violation of the *Rules* Mee is not an employee of Kaiser Cement

The protest was investigated by Regional Coordinator Don Twohey The investigation discloses the following facts Kaiser Cement employs approximately 120 employees, represented by 8 different unions The IBT represents approximately 20 of the employees The Kaiser compound is spread over many acres, and the entire area is fenced Heavy equipment as well as production buildings are located throughout the site Access to the fenced area is controlled by a guard located in a guard shack at the entrance to the facility The facility is located at the end of a long road that dead ends into Kaiser Cement The road is travelled almost exclusively by vehicles bringing supplies to the plant or leaving the plant with deliveries There is a speed bump in the road about 100 yards in front of the guard shack

There is no drivers' room, break area, or lunch room located inside the compound There is a company bulletin board located in the office area, there is no Union bulletin board The company bulletin board has been used exclusively for official company postings with a single exception on an occasional basis, the employer has

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permitted various unions to post notices of union meetings, that is, official Union notices. There is no evidence that the board has every been used for general purpose postings, that is postings other than official notices.

Article VIII, § 10 (d) of the *Rules* provides that no restrictions shall be placed on IBT members' pre-existing rights to utilize and have access to employer premises for campaign activities. The Advisory on Political Rights makes clear that such access includes access to general purpose bulletin boards for campaign postings. The evidence in this case, however, does not show a pre-existing right to use the bulletin board for campaign postings, since the board has been used historically only for official posting. The *Rules* do not require the employer to provide campaign access to such a bulletin board.

Further, Mee is not employed by Kaiser. As the Advisory on Political Rights states, the access rights of IBT members not employed by the employer are far more limited. Unless the employer has by practice granted greater access, IBT members not employed by it have no right of access to the interior of the employer's facility thus precluding such members from bulletin board access, even where the bulletin board is a general purpose board, or from access to lunch rooms, driver's rooms or other non-work areas.

Mee is not employed by Kaiser. There is no general purpose bulletin board. There is no driver's room, lunch room or other break area in the compound. There is no allegation that Mee was treated discriminatorily and the protest is DENIED¹.

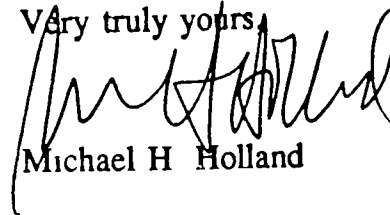
If any interested party is not satisfied with this determination, they may request a hearing before the Independent Administrator within twenty-four (24) hours of their receipt of this letter. The parties are reminded that, absent extraordinary circumstances, no party may rely upon evidence that was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

¹Although Mee's protest concerns interior access and although the delegate and alternate delegate election for Local 287 has concluded, the Election Officer dealt with Kaiser regarding access with respect to the International election, by IBT members not employed by it. The employer has no objection to IBT members not employed by it engaging in campaign activity in front of the guard shack, but outside the fenced compound. The access road to the facility is not heavily travelled. There is a speed bump that slows the speed of vehicles before they enter the fenced area. The Election Officer concludes that IBT members not employed by Kaiser Cement could safely campaign outside the fenced area but at the entrance to the compound in front of the guard shack. This satisfactorily resolves the access issue.

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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", written over the typed name below.

Michael H Holland

MHH/mca

cc Frederick B Lacey, Independent Administrator
Donald E Twohey, Regional Coordinator