



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 16, 1991

VIA UPS OVERNIGHT

Kevin M Cacak
Vice President
IBT Local Union 430
355 South Wheaton St
York, PA 17403

Kenneth E Stocker
President
IBT Local Union 430
355 South Wheaton St
York, PA 17403

Rich Muller
Industrial Relations,
Preston Trucking Co
107 Youngs Rd.
Mercerville, NJ 08619

Re: Election Office Case No. P-721-LU430-PHL

Gentlemen

A pre-election protest was filed pursuant to Article XI, § 1 of the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("Rules") by Kevin M Cacak, Vice President of IBT Local 430 and a candidate for alternate delegate from that Local. Mr Cacak complains that on or about March 12, 1991 management of Preston Trucking Company, an employer of IBT members, removed all campaign materials from the bulletin boards at its terminals known as York and Harrisburg, both located in Pennsylvania within the jurisdiction of Local 430¹. The Election Officer has investigated the protest of Mr Cacak.

¹The pre-election protest was dated March 22, 1991, the day the election for delegates and alternate delegates was held in Local 430. Mr Cacak does not contend that the actions of Preston Trucking affected the outcome of the election, nor does the Election Officer find that the violation, if any, would affect the outcome of the election. The investigation demonstrates that campaign materials for all candidates was removed. However, the Election Officer does not find the protest to be moot due to the upcoming International elections. Mr Cacak specifically requests that the Election Officer determine his protest for the purpose of the International election.

In a prior determination of the Election Officer (Case No P-436-LU773-PHL) arising from a protest in another IBT Local having members employed by Preston Trucking, the employer agreed that IBT members had the right to post campaign literature on general purpose bulletin boards. Preston continues to so agree.

The instant protest arises from, in part, a misunderstanding and, in part, a dispute as to which bulletin boards are general purpose boards upon which campaign literature may be posted. There are two types of general purpose bulletin boards located at these facilities. One type is a "normal" general purpose board containing for sale signs and the like. The right to post campaign literature on these boards is undisputed and not the subject of this protest. The second type of general purpose board is a Union board, but one other than the official Union board. The general purpose Union board has been utilized for posting Union related material other than official Union notices. Such bulletin boards would be considered general purpose bulletin boards within the meaning of the Advisory on Political Rights.

The Election Officer has communicated with counsel for the employer. The employer has agreed that the bulletin boards described below may be utilized for the posting of campaign literature. With the exception of the larger bulletin board in the drivers/dispatch area in the York terminal, the position of the employer as to which bulletin boards are available for campaign postings is consistent with the Election Officer's position as set forth in the Advisory on Political Rights.

The Harrisburg terminal contains two bulletin boards in the drivers/dispatch area, a trailer, both of which are Union/general purpose boards which may be used for the posting of campaign materials. The lunch/break area of the Harrisburg terminal contains three bulletin boards. One bulletin board is an official company board, for use by the company only, one bulletin board is a normal general purpose bulletin board, and the third bulletin board is divided, one-half is an official Union board, for official Union postings only, and the other half is a Union/general purpose bulletin board. The one-half of the third bulletin board may be used for the posting of campaign materials.

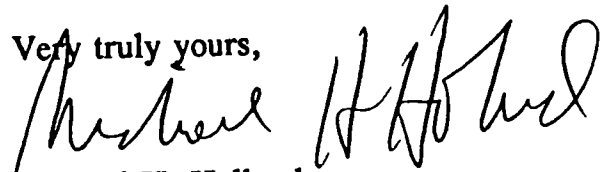
The York Terminal has two bulletin boards located in drivers/dispatch area. The employer contends that both are official Union bulletin boards used exclusively for the purpose of posting official Union notices. The election officer investigation determined that smaller of the two boards is an official Union bulletin board; the investigation determined that such board has been used historically solely for the posting of official Union notices.

With respect to the larger of the two boards, the investigation of the Election Officer found that such board, while normally used for the posting of official Union notices, has been used previously to post campaign materials in connection with Local Union officer elections. The investigation of the Election Officer demonstrates that for at least the last three Local Union officer elections, campaign material has been posted on such bulletin board. Thus this bulletin board may be utilized for the posting of campaign material with respect to the IBT International Union election being supervised by the Election Officer. See Advisory of Political Rights.

The protest is granted and or resolved in accordance with the following IBT members have the right to post campaign materials on the following bulletin boards at Harrisburg (a) both bulletin in the drivers/dispatch area and (b) one half of one bulletin board in the lunch/break area, at York, the larger bulletin board in the drivers/dispatch area

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, 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,



Michael H Holland

MHH/mca

cc Frederick B Lacey, Independent Administrator
Peter V Marks, Sr, Regional Coordinator

F William Kirby
c/o Manning, Davis & Kirby
1108 Ross Bldg
810 E Main St
Richmond, VA 23219

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April 18, 1991

Kevin M Cicak
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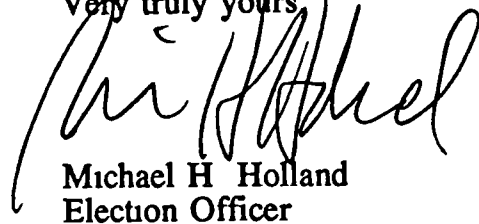
On April 16, 1991 the Election Officer issued his determination in the above referenced protest. At issue in the protest was access to bulletin boards at the Preston Trucking facilities in Harrisburg (Strinestown) and York (Emigsville) Pennsylvania for campaign postings. The matter was resolved to the mutual satisfaction of all parties and the Election Officer other than with respect to the right of IBT members to post campaign literature on the larger of two union bulletin boards located in the Drivers' Room/Dispatch area of the York facility. The Election Officer found that the bulletin board in question had been used for campaign postings during three prior Local Union officer elections and held that restrictions on access to that board for campaign posting was violative of the Election Rules.

After its receipt of the determination Preston, through its counsel, contacted the Election Officer by phone and proposed the following resolution of this matter. Preston will install a three foot by five foot bulletin board immediately adjacent to the entrance of the Drivers' Room/Dispatch area at the York terminal. Counsel for Preston has represented to the Election Officer that the bulletin board will be located so that all drivers entering the Drivers' Room will have a clear view of the board. Thus any member who would be in a position to see the bulletin boards in the Drivers'/Dispatch room will see, upon entering that room, the proposed new bulletin board. That board will be available for the posting of campaign material.

Kevin M Cacak
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Based on the employer's willingness to install a bulletin board for campaign postings in an area that will be seen by all IBT members entering the Drivers' Room/Dispatch Area, the Election Officer considers this matter resolved. The Election Officer's prior determination in this matter is hereby modified to reflect this agreement regarding the York facility

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 initial "M".

Michael H Holland
Election Officer

cc Frederick B Lacey, Independent Administrator, IBT
Peter Marks, Sr , Regional Coordinator