

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

Michael H. Holland
Election Officer

(202) 624-8778
1-800-828-6496
Fax (202) 624-8792

April 10, 1991

VIA UPS OVERNIGHT

Thomas D. Miklavic
Rd #2, Box 391
Claysville, PA 15323

William F. Genoese
Secretary-Treasurer
IBT Local Union 732
15 East 26th Street
Suite 1508
New York, NY 10010

John A. Aulicino, Jr.
c/o The Democracy Slate
Rd #1, Box 280 A
Rayland, OH 43943

Re: Election Office Case No. P-725-LU732-NYC

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, Thomas D. Miklavic, a supporter of the Genoese Slate, alleges that John A. Aulicino, Jr. and the Democracy Slate have violated the *Rules* by posting campaign materials at U S Air in locations other than bulletin boards which have been designated for campaign postings.

Miklavic states in his protest that the Democracy Slate has posted campaign materials on the walls in non-work areas at U S Air and distributed campaign literature by placing the literature on IBT members' lockers as well as in U S Air ground equipment. He states further that he has reported this posting and distribution practices by the Democracy Slate to U S Air management, but that management has continued to permit the aforementioned campaign distributions. Miklavic does not allege that he has been prohibited from distributing his campaign literature in similar locations or by methods similar to those used by the Democracy Slate.

The *Rules* provide that no restrictions shall be placed upon a member's pre-existing rights to solicit support, distribute leaflets or literature, conduct campaign rallies, hold fund raising events or engage in similar activities on employer or Union premises. Such facilities and opportunities shall be made equally available on the same basis to all

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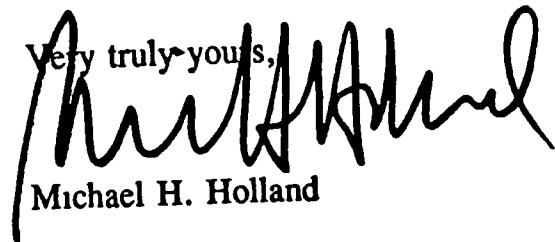
candidates and members." *Rules*, Article VIII, § 10 (d). As the Election Officer notes in his Advisory Regarding Political Rights, where a particular employer or a particular facility has been more liberal or provided greater access than the access required by the *Rules* or substantive law, the prior practice will prevail.

Thus, it is permissible for U S Air to provide greater campaign access than that required by the *Rules*. It must do so, however, on a non-discriminatory basis. Miklavic does not allege, and the Election Officer investigation did not reveal any acts of discrimination or unequal treatment of the slates, or their members and supporters by U S Air. There is no showing that the *Rules* have been violated.

Based on the foregoing, the protest is DENIED. Should evidence develop of unequal treatment with respect to the rights of the parties to distribute literature, a new protest can be filed.

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
Amy Gladstein, Regional Coordinator