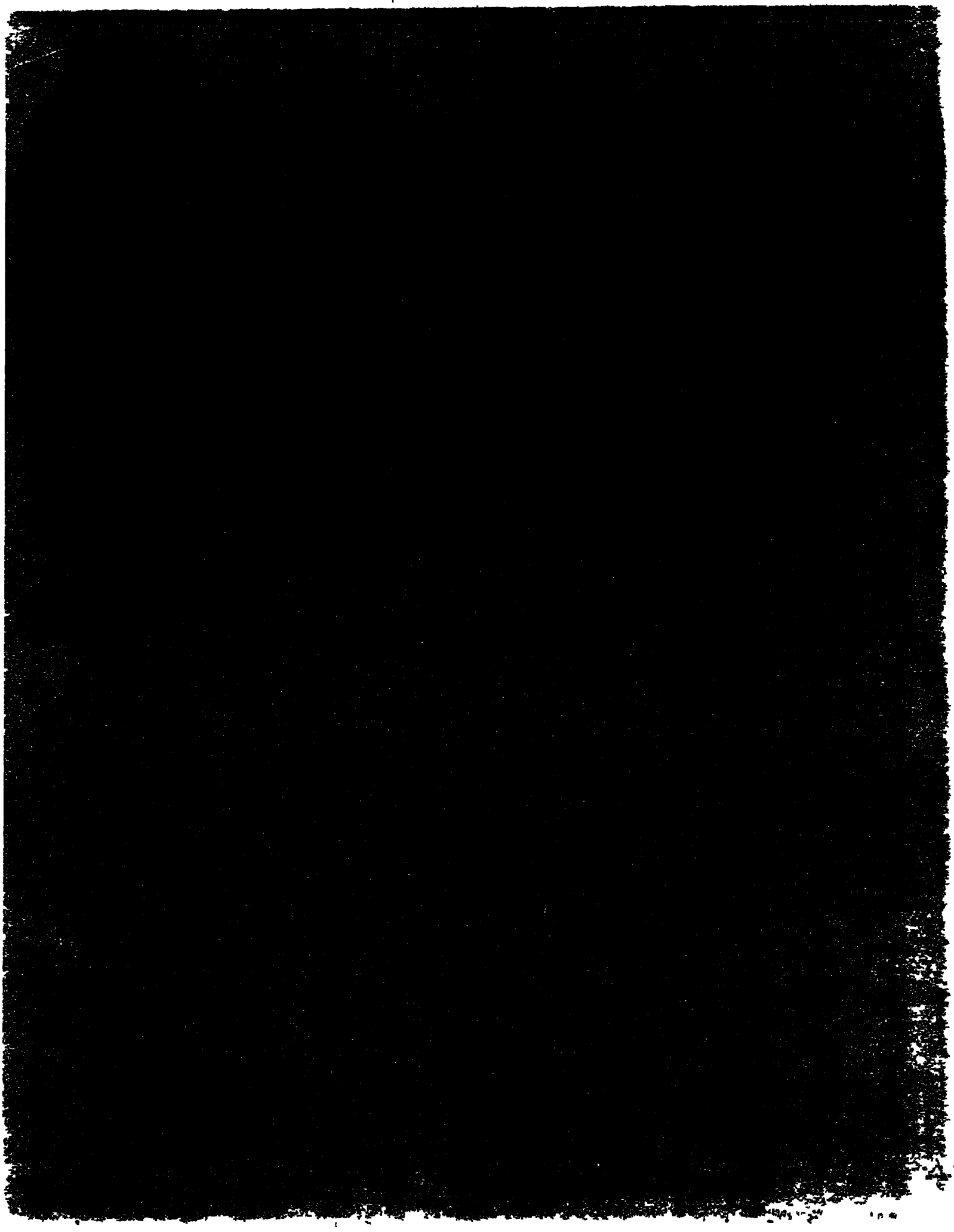

OFFICE OF THE ELECTION OFFICER
% INTERNATIONAL BROTHERHOOD OF TEAMSTERS
25 Louisiana Avenue, NW
Washington, DC 20001

Michael H Holland
Election Officer

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

April 29, 1991

VIA UPS OVERNIGHT

Richard A Gephardt
10825 B, SE 172nd
Renton, WA 98055

Lawrence N Weldon
Secretary-Treasurer
IBT Local Union 741
552 Denny Way
Seattle, WA 98109

Michael Werner
c/o IBT Local Union 741
552 Denny Way
Seattle, WA 98109

Re: Election Office Case No. P-729-LU741-PNW

Gentlemen

A 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, Richard Gephardt, an elected alternate delegate, alleges that Michael Werner, a shop steward and recording secretary of Local 741, has removed campaign literature in violation of the *Rules*

The protest was investigated by Regional Coordinator Christine Mrak and Adjunct Coordinator Patricia Warren The investigation discloses the following facts On March 26, 1991, an article appeared in the Seattle Post Intelligencer about the Local IBT delegate elections The article featured photographs and quotes from the winning delegate candidates and characterized the election as an upset defeat for Local Union officers

On April 5, 1991, Jim Bateman, an IBT member employed by Northwest Transport, posted the newspaper article on the wall in the lunchroom All parties to this protest agree that the lunchroom walls have long served as a general purpose bulletin

board Copies of the newspaper article were also hand distributed at Northwest Transport, and a copy of the article was posted by the time clock

The investigation shows, and Werner admits, that he removed the news article from the lunchroom wall. He states, however, that he did not do so because hand written on the article was a note stating "Mike, what do you think of this? " He removed the article solely because of the note "addressed" to him He did not remove the identical newspaper article posted by the time clock, since that article did not contain such a note

Gephardt did not personally witness any of the events that gave rise to the protest. He was told them by Bateman Bateman states that he and Werner have had a good natured debate about the delegate campaign throughout the election process Bateman supported the winning slate and Werner supported their opponents Gephardt does not allege and the evidence does not show that Werner has removed campaign materials from the lunchroom walls at any other time during the election campaign

The *Rules* provide that "no restrictions shall be placed upon candidates' or members' pre-existing rights to use employer or Union bulletin boards for campaign publicity Similarly, no restriction shall be placed upon candidates' or members' pre-existing rights to solicit support, distribute leaflets or literature, conduct campaign leaflets or literature, conduct campaign rallies, hold fundraisers or engage in similar activities in employer or Union premises " *Rules*, Article VII, § 10(d)

The evidence shows that IBT members employed by Northwest Transport have been permitted to use the lunchroom walls for posting of campaign materials Therefore, it is a violation of the *Rules* to interfere with such postings The Election Officer concludes, in this case, however, that Werner's removal of the single posting that he perceived to be "addressed" to him does not constitute the interference prohibited by the *Rules* Werner did not remove the posted newspaper article from its position by the time clock, and he in no way interfered with any hand distribution of the newspaper article There is no evidence that Werner has removed any other campaign materials in the past This single incident did not interfere with the membership's ability to obtain and read the literature in question, nor in their ability to engage in campaign activities

Based on the foregoing, the protest is DENIED

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/mjv

cc Frederick B Lacey, Independent Administrator
Christine M Mrak, Regional Coordinator