

OFFICE OF THE ELECTION OFFICER
% INTERNATIONAL BROTHERHOOD OF TEAMSTERS
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Washington, DC 20001

Michael H. Holland
Election Officer

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September 5, 1991

VIA UPS OVERNIGHT

Daniel Hanners
6641 Pershing Ave.
Rockford, IL 61109

Gerald F. Reilly
President
IBT Local 723
344 N. 30th Road
LaSalle, IL 61301

Consolidated Freightways
Attn. John T. McGrath, Dispatch Mgr.
P.O. Box 481
Peru, IL 61354

Re: Election Office Case No. P-831-LU722-SCE

Gentlemen:

A protest was filed pursuant to the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("*Rules*") by Daniel Hanners, a member of Local Union 722 and a certified delegate to the 1991 IBT International Union Convention from Local 722. Mr. Hanners contends that he was wrongfully issued a letter of warning because of his participation as a certified delegate to the 1991 IBT International Union Convention. He further contends that the warning letter is part of a pattern of harassment suffered by him and the other delegates and alternate delegates to the 1991 Convention because of their attendance and participation in the activities of that Convention. See Election Office Case Nos. P-809-LU722-SCE, P-810-LU722-SCE, P-812-LU722-SCE, P-815-LU722-SCE, P-820-LU722-SCE and P-830-LU722-SCE.

Mr. Hanners is and has been an active participant in the election activities mandated by the March 14, 1989 Consent Order and governed by the *Rules*. He successfully sought election as a delegate to the 1991 IBT International Union Convention on a slate committed to the candidacy of nominated General President candidate Ron Carey. His entire slate, consisting of himself and two other candidates for delegate and one candidate for alternate delegate, all of whom are employed by Consolidated Freightways, were elected. Their opponents ran on a slate headed by

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Gerald F. Reilly, President of Local 722 and included Jack B. Jacobs, Recording Secretary of Local 722. Mr. Jacobs is also the business agent with responsibilities for IBT members employed by Consolidated Freightways. Mr. Hanners' campaign activities and political preferences were clearly known to supervisory personnel at the Peru, Illinois facility of Consolidated Freightways where he works.

The protest was investigated by Regional Coordinator Peggy A. Hillman. On July 17, 1991, after Mr. Hanners reported to work and "logged in," he met with Richard Redemske, the assistant to Dispatch Operations Manager John T. McGrath. This meeting with Mr. Redemske lasted approximately one hour. At the conclusion of the meeting, Mr. Redemske instructed Mr. Hanners to account for the hour meeting by repunching his time clock. Mr. Hanners did so. Mr. Hanners was issued a warning letter for "delay of freight and equipment" on the basis that he had spent an hour at the terminal facility after his arrival there on July 17, instead of immediately departing the facility with the freight he was assigned to deliver.

Mr. Hanners, however, did not delay in performing his job duties for the company. The hour between his initial arrival at the terminal and his departure on his trip was spent in meeting with supervisory personnel; he was relieved of duty for that hour by his supervisor. The company admits that the warning letter was issued to Mr. Hanners in error. It was issued based on Mr. Hanners' time records without any prior discussion by and between Mr. McGrath and Mr. Hanners or Mr. McGrath and Mr. Redemske. While admitting its error, the company asks that the Election Officer defer ruling on the protest. The company notes that a grievance has been filed with respect to the warning letter and suggests that it will confess its error at the time of the hearing on such grievance. Mr. Hanners states that he filed no such grievance.

Whether a grievance was or was not filed, the Election Officer declines to defer ruling on the instant protest. As noted above, Mr. Hanners is and has been an active participant in the elections over which the Election Officer has jurisdiction and which are governed by the *Rules*. Further, Mr. Hanners and his fellow delegates and alternate delegates have been subjected to a number of adverse decisions by Consolidated Freightways. All of these matters have arisen since their participation in the 1991 IBT International Union Convention. While the Election Officer has not found that all of the actions taken against Mr. Hanners and his fellow delegates and alternate delegates were wrongful, see Election Office Case Nos. P-809-LU722-SCE, P-810-LU722-SCE and P-812-LU722-SCE, no basis appears for other actions taken against them. See Election Office Case Nos. P-815-LU722-SCE, P-820-LU722-SCE and P-830-LU722-SCE. Further, while the Election Officer is aware that mistakes can occur with respect to the issuance of disciplinary actions, the failure to conduct any investigation before the warning letter was issued to Mr. Hanners is unusual. Additionally, there is no reason under the collective bargaining agreement or otherwise for the company to refuse to

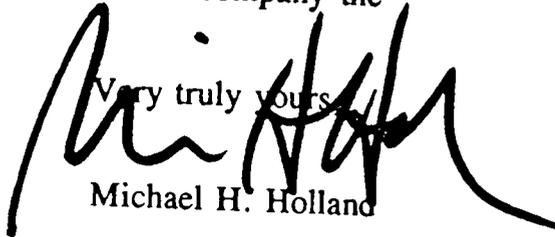
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rescind what it now admits was an erroneously issued warning letter whether or not the grievance was filed or whether or not the grievance hearing has concluded. For all these reasons, the Election Officer declines to defer his decision on this protest.

The evidence establishes that Mr. Hanners is and has been an open and active participant in election and related activities governed by the *Rules*. The evidence further establishes that there was no factual basis for Consolidated issuing him a warning letter. The letter was issued without any investigation of the underlying facts, rebutting any presumption that the letter, albeit issued wrongfully, was issued in the normal course. Accordingly, the Election Officer GRANTS the protest and orders Consolidated Freightways to immediately expunge the letter of warning issued on July 19, 1991 from the personnel files of Daniel L. Hanners. Within ten (10) days of the date of this decision, Consolidated shall file an affidavit with the Election Officer demonstrating its compliance with this decision.

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
Peggy A. Hillman, Regional Coordinator