

OFFICE OF THE ELECTION OFFICER
% INTERNATIONAL BROTHERHOOD OF TEAMSTERS
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Election Officer

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August 14, 1991

VIA UPS OVERNIGHT

Larry L. Jackson
P.O. Box 210472
Montgomery, AL 36121

Don L. West
President
IBT Local Union 612
50 Bagby Drive
Birmingham, AL 35219

Randy Allen
Feeder Supervisor, UPS
2401 Jackson Ferry Rd.
Montgomery, AL 36110

Re: Election Office Case No. P-842-LU612-SEC

Gentlemen:

A 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 Larry Jackson, a member of Local Union 612 and an employee of United Parcel Service ("UPS") at its terminal in Montgomery, Alabama. Mr. Jackson alleges that on July 18, 1991 Don West, Jr., a Business Agent of Local Union 612, was campaigning in the dispatch area at the UPS terminal in Montgomery, Alabama while on Union paid time.

An investigation of this protest was conducted by Regional Coordinator Donald Williams. Mr. Jackson stated that he was in the dispatch area of the Montgomery terminal when Mr. West approached him. Mr. West asked him if he knew the position on wages taken by IBT General President candidate Ron Carey, the candidate openly supported by Mr. Jackson. Mr. Jackson stated that Mr. West then pulled a magazine article from his pocket that had been marked to show Mr. Jackson that Mr. Carey's view was that each section of the country should earn a different wage for the same job. Mr. West disparaged this position and stated that the IBT had been fighting regional wage differentials for years. Mr. Jackson further stated that Mr. West then asked another driver, Thomas Streety, the same question and gave him a copy of the article.

Thomas Streety was also interviewed by the Regional Coordinator. Mr. Streety stated that when he was coming on duty on July 18, 1991, and while walking through the break room, he exchanged greetings with Don West. Mr. West asked him if he knew about Mr. Carey's attitude on separate pay scales. Mr. West then handed him an article and made some comments further critical of Mr. Carey. Mr. Streety indicated that the entire conversation was approximately two minutes in duration; Mr. Streety was just passing through the break room prior to going on duty. Mr. Streety further stated that he did not read the article, but gave it to another employee, Larry Rayburn.

Larry Rayburn was interviewed by the Regional Coordinator. Mr. Rayburn said that he recalled the incident referred to in the protest but could not recall the date of the incident. Mr. Rayburn stated that he remembered coming from work and seeing Don West, Thomas Streety and Larry Jackson engaged in conversation. Mr. Rayburn joined them. He received a copy of the magazine article but did not recall whether Mr. Streety handed it to him or whether he picked it up from the table.

Mr. Rayburn said that when he first joined the conversation, it concerned the position of Mr. Carey on wage rates. The discussion then switched for a few minutes to Mr. West's father, a nominated candidate for IBT International Union Vice President, and concluded with a conversation concerning a grievance that Mr. Rayburn had filed. Mr. Rayburn said that Mr. West was campaigning during a portion of the conversation but that the discussion also concerned official Union matters. Mr. Rayburn indicates that the entire conversation lasted several minutes.

Randy Allen, the Feeder Supervisor at the Montgomery terminal, stated that he did not overhear any part of the conversation that Mr. West had with Mr. Jackson, Mr. Streety or Mr. Rayburn. Mr. Allen stated that Mr. West comes to the Montgomery Terminal on a regular basis and is often in the break room where he meets and converses with IBT members as they pass through the break room. Mr. Allen stated that he was inside his glass partitioned office on the date in question, engaged in distributing shirts to drivers as awards for safe workdays.

UPS, by its counsel, advised the Election Office that at no time would UPS knowingly condone campaigning among or directed at its employees during work time or in work areas. As indicated by Mr. Allen, UPS had no direct knowledge of the conversation by and between Messrs. West, Jackson, Streety and Rayburn.

Mr. West provided an affidavit to the Election Officer in which he states that as part of his duties as a Business Agent he visits the UPS facility in Montgomery approximately twice a month. During these visits he often speaks with members of the bargaining unit about Union matters, work-related problems, grievances, and UPS and IBT activities. Mr. West admits that on some of his visits he occasionally discusses with the IBT members employed at the facility newsworthy subjects including intra-Union politics.

Mr. West indicates that prior to July 18, 1991, he had mentioned to Larry Jackson and some of the other members that Mr. Carey had stated that he favored regional wage differentials. Mr. West stated that one of the drivers told him that he would not believe this unless he saw it in writing. Thus, when Mr. West saw the article concerning Mr. Carey's alleged position on regional wage differentials, he took the article with him on a regular visit to the Montgomery UPS terminal.

Mr. West states that these discussions about the wage differential occurred in the break room which is adjacent to the dispatch area. To the best of his knowledge, he did not speak to any driver who was working, although Mr. West admits that he did not know whether the members to whom he spoke were "off the clock". Mr. West denies engaging in any campaigning for his father or for any other candidate for IBT International Union office.

Prior to determining the merits of this protest, the Election Officer notes that the protest was not timely filed under Article XI, §1 of the *Rules*. That section of the *Rules* provides that protests must be filed within 48 hours of the incident giving rise to the protest. The allegations of this protest state that the discussion took place on July 18, 1991. However the protest was not filed until August 1, 1991, clearly long after the 48 hour period had elapsed.

Mr. Jackson stated to the Regional Coordinator that the protest form promulgated by the Election Officer permitted him 15 days to file a protest. The protest form states that protests concerning improper election day or post-election conduct for the IBT International Union officer election must be filed within 15 days of the announcement of the election results. For conduct occurring prior to the election day, the form specifies 48 hours for filing. The instant protest is obviously not a post-election protest. The Election Officer determines that the protest was not filed timely.

Larry L. Jackson
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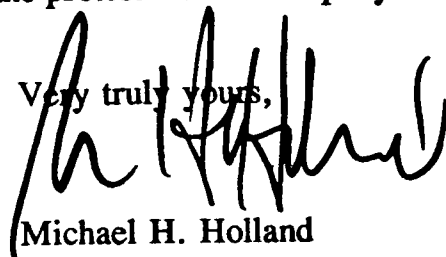
With respect to the merits of the protest, Article VIII, §10(b) of the *Rules* provides that "all Union officers and employees, if members, retain the right to participate in campaign activities including the right to openly support or oppose any candidate." The *Rules* further state that campaigning must not involve the expenditure of Union funds. The *Rules* specifically provide, however, that campaigning incidental to regular Union business is not violative.

The Election Officer finds that any campaigning done by Don West on July 18, 1991 at the UPS terminal in Montgomery was incidental to his presence at the facility for and on official Union business. The statements of all witnesses indicate that the conversation held with them by Mr. West was a few minutes at most in duration and that Mr. West discussed grievances and other official Union business matters during the conversation. The campaigning that occurred with incidental to Mr. West's performing his regular Union duties. Accordingly, the fact that Mr. West engaged in such campaigning while on time paid by the Union does not violate the *Rules*.

In accordance with the foregoing, and with respect both to timeliness and the merits, 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/cdk

Larry L. Jackson
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cc: Frederick B. Lacey, Independent Administrator

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