

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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September 19, 1991

VIA UPS OVERNIGHT

David R. Long
Rt. 4 Box 66B
Ozark, MO 65721

Bernard Morris
Secretary-Treasurer
IBT Local Union 245
1850 E. Division
Springfield, MO 65803

Associated Wholesale Grocery
3201 E. Division
Springfield, MO 65802

Re: Election Office Case No. P-880-LU245-MOI

Gentlemen:

A protest was filed with the Election Office pursuant to Article XI of the Rules for the IBT International Union Delegate and Officer Election, revised August 1, 1990 ("Election Rules"). In his protest, David Long alleges that his rights under the Election Rules were violated by his employer, Associated Wholesale Grocery ("Associated"), because he was told by his employer to remove campaign stickers from the cab of his truck. The Election Officer's investigation revealed the following.

David Long is a member of the IBT and of Local Union 245. He is employed as a driver by Associated in Springfield, Missouri. Except for unusual circumstances or situations involving mechanical breakdown, drivers are assigned a truck by Associated for use in their employment. On August 21, 1991, Long was told by his supervisor to remove all stickers, including Ron Carey campaign stickers, from inside of the cab of his truck.

Associated maintains no written policy regarding the attachment of stickers to its equipment by employees. However, the Election Officer's investigation reveals that Associated has maintained and enforced a policy prohibiting employees from placing decals, stickers and the like, other than those of safety organizations, on its truck trailers

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or cabs. The Election Officer investigation reveals that decals and stickers have not habitually and regularly been affixed to cabs and trailers. When supervisory personnel note or discover a sticker or decal on Associated equipment, Associated has historically removed, or asked its employee to remove, the material from the company equipment, including the inside of the cab. The material which the employer has in the past asked employees to remove from company vehicles were sticker or decals which did not communicate a campaign message or otherwise involve intra-union politics.

Article VIII, Section 10 of the Election Rules provides, *inter alia*, that no restrictions shall be placed on a member's pre-existing rights to use an employer's facilities for campaign purposes. Such a pre-existing right may be established by substantive law, contract, employer conduct or past practice. See eg, In Re: Naslanic and Faygo Beverages, P-894-LU337-MGN. Substantive law does not give employees the right to use company equipment such as truck cabs or trailers for posting of intra-union political campaign messages. The Election Officer's investigation determined that there was no past practice of permitting decals and stickers to be placed on company equipment or that the employer ever condoned by its conduct utilization of company equipment for these purposes. While in a few instances decals or stickers may have been placed on company equipment, and such stickers may have remained on the trucks for a period of time before they came to the attention of supervisory personnel, the investigation revealed no instance where Associated -- once it was aware that the sticker or decal was on the truck -- did not have the sticker or decal removed. The investigation revealed no evidence that the policy was not enforced or enforced in a discriminatory manner, i.e. enforced only with respect to decals or stickers with a political message. Therefore the Election Officer was unable to conclude that there was a past practice of Associated of permitting its vehicles to be used for the display of stickers that would overcome the employer's policy of prohibiting such postings.

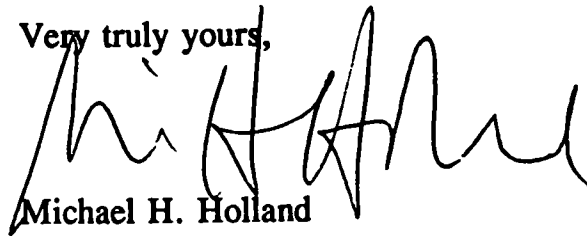
For the forgoing reasons the instant protest is DENIED.

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,

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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,

A handwritten signature in black ink, appearing to read "Michael H. Holland". The signature is fluid and cursive, with a large initial "M" and "H".

Michael H. Holland

cc: Frederick B. Lacey, Independent Administrator

Michael D. Gordon, Regional Coordinator

Peter E. Tamborski, Esquire
Thompson, Hiwe and Flory
Suite 1400
312 Walnut Street
Cincinnati, Ohio 45202-4029