



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

September 26, 1991

VIA UPS OVERNIGHT

Robert L. Emerson
3336 Ruger Avenue
Janesville, WI 53546

Commercial Carriers, Inc.
620 Roosevelt Road
West Chicago, Illinois 60607

Joseph White
Supervisor
Commercial Carriers, Inc.
620 Roosevelt Road
West Chicago, Illinois 60607

William D. Joyce
President, IBT Local Union 710
4217 South Halsted Street
Chicago, Illinois 60609

Re: Election Office Case No. P-890-LU710-CHI

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") by Robert Emerson, a member of Local 710. Mr. Emerson states that he posted campaign literature about the Local 710 Local Union officer election and the upcoming IBT International Union election on a bulletin board located in the West Chicago terminal of Commercial Carriers, Inc. ("CCI"), his employer. He contends that this material as well as campaign literature supporting the Ron Carey Slate of International Union Officer candidates posted by another IBT member employed by CCI were removed by supervisory personnel of the employer in violation of the *Rules*.¹

¹ By the terms of the March 14, 1989 Consent Order and the *Rules*, the jurisdiction of the Election Officer does not extend to Local Union officer elections. See *Rules*, Preamble at pages 1-2. Accordingly, the decision of the Election Officer in this case is limited to the posting of campaign literature with respect to the International Union officer election. The Election Officer does not comment or rule upon, since he has no jurisdiction to do so, the right of Mr. Emerson and other IBT members employed at CCI to post materials with respect to the Local Union officer elections in Local 710.

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This protest was investigated by Adjunct Regional Coordinator Deborah Schaaf. The investigation revealed that the West Chicago terminal of CCI is a small terminal; only nineteen (19) drivers are employed at that location. There are two bulletin boards at the facility. One bulletin board is enclosed in glass but not locked. The other bulletin board is an open board.

A.J. McCume, Director of Labor Relations for CCI, contends on behalf of the company that the policy of CCI is and has been that only official company and Union materials may be posted on the bulletin boards. He argues that the National Automobile Transporters Agreement, to which CCI is a party with the IBT, while requiring employers to provide Union bulletin boards at each worksite, limits the posting of materials on such boards to "official business of the Union." However, that collective bargaining agreement also requires that the bulletin board so provided by employers be a glass-enclosed bulletin board. There is such a glass-enclosed bulletin board at the West Chicago terminal of CCI which all parties agree is to be used only for the posting of official notices in accord with the requirements of the collective bargaining agreement. However, this small terminal also has a second bulletin board, an open bulletin board, which is the bulletin board on which the protestor contends he is entitled to post campaign materials.

Mr. McCume also admits that CCI's policy with respect to the posting of materials on bulletin boards has been only a "verbal" policy. For the first time CCI plans to reduce its alleged policy to writing and post it, "to avoid any confusion." The policy that CCI states it will post says "There shall be no written material placed on any company property by any individual."

The Election Office investigation determined, contrary to the contention of CCI, that the open bulletin board at the West Chicago terminal of CCI has been historically utilized for the posting of materials other than official company and Union notices.² The investigation determined that IBT members employed at the West Chicago terminal of CCI had utilized the open bulletin board for posting such materials as "for sale" signs, commercial advertisements, pictures of fellow drivers and the like. The evidence revealed that these materials once posted remained on the bulletin board for many months; these items were not removed until they became yellowed and faded.

² Although on the date that the Adjunct Regional Coordinator visited the facility, the only materials posted on the open bulletin board were official notices, that visit occurred after the protests here had been filed and acknowledged, with a copy to CCI.

Article VIII, § 10(d) of the *Rules* provides that "no restrictions shall be place upon candidates' or members' pre-existing rights to use employer or Union bulletin boards for campaign publicity." Where a bulletin board on the employer's premises has been used to post materials other than, or in addition to, official Union or employer notices, and even though such other postings have never included campaign postings, IBT members have a right to use the bulletin board for campaign posting subject to the regulations previously applied to "general purpose postings." Helton v. NLRB, 656 F. 2d 883 (D.C. Cir., 1981).

The Election Officer finds that the open bulletin board at the West Chicago terminal of CCI is a general purpose bulletin board upon which no previous restrictions or regulations have been placed. The language contained in the collective bargaining agreement does not and cannot diminish the rights of employees to post in intra-union campaign material on this board since the board has been previously utilized for non-official postings. Helton v NLRB, *supra*.³ Accordingly, the Election Officer determines that CCI has violated the *Rules* by removing any campaign literature posted on the open bulletin board at the CCI terminal in West Chicago.

The protest is GRANTED. CCI is ordered to cease and desist from removing campaign literature related in whole or in part to the 1991 IBT International Union officer election from the open bulletin board located in its West Chicago terminal. CCI is directed affirmatively permit the posting of International Union campaign-related materials on such open bulletin board through the date of the election for IBT International Union officers, December 10, 1991.

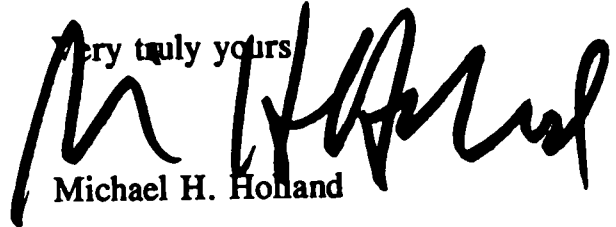
If any interested party is not satisfied with this determination, they may request a hearing before the Independent Administrator within twenty-four (24) hours of their receipt of this letter. The parties are reminded that, absent extraordinary circumstances, no party may rely upon evidence that was 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,

³ As noted above the terms of the collective bargaining agreement do not support the position of CCI that the open bulletin board is restricted to official Union postings. Under the terms of the collective bargaining agreement, the bulletin board the employer is required to provide, and which is restricted to official Union postings, is a glass-enclosed bulletin board. The glass-enclosed bulletin board at the West Chicago terminal at CCI is not at issue in this protest.

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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 written in a cursive, somewhat stylized font. The first letter "M" is large and prominent. The signature is positioned above the printed name "Michael H. Holland".

Michael H. Holland

MHH/ca

cc: Frederick B. Lacey, Independent Administrator
Julie E. Hamos, Regional Coordinator