



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

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September 30, 1991

**VIA UPS OVERNIGHT**

James Benson  
4419 West Paradise Drive  
Glendale, AZ 85304

W. Terry Moser  
Secretary-Treasurer, IBT Local Union 104  
1450 South 27th Avenue  
Phoenix, AZ 85009

Terry Reeves  
Warehouse Operations Manager  
Chuck Sharp  
Human Resources Director  
Safeway  
115 West Alameda  
Tempe, AZ 85282

Michael J. Riley  
c/o IBT Joint Council 42  
1616 West Ninth Street  
Room 500  
Los Angeles, CA 90015

**Re: Election Office Case No. P-921-LU104-RMT**

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, Jim Benson alleges that Mike Riley, a candidate for International Union Vice President from the Western Conference and as a member of the R. V. Durham Unity Team Slate, was granted greater access to the Safeway warehouse in Tempe, Arizona than afforded James Benson, who is a candidate for International Union Vice President At-Large on the Ron Carey Slate. Specifically, Mr. Benson alleges that Mr. Riley was permitted access to the drivers room inside the Safeway facility while the company has refused to permit Carey supporters similar access. The Election Officer's investigation revealed the following facts.

On September 13, 1991, Mike Riley went to the Safeway facility in Tempe, Arizona for the purposes of campaigning on behalf of his candidacy for IBT Vice President. Mr. Riley was accompanied by Terry Moser, Secretary-Treasurer of IBT Local Union 104 in Phoenix, Arizona. Mr. Benson states that he did not personally observe Mr. Riley going into the driver's room but was informed by Mr. Farimen, an employee working at the facility, that Mr. Riley visited the drivers room.

Mr. Boyens, the Election Office Regional Coordinator, interviewed Mr. Farimen who stated that he observed Terry Moser come into the Safeway driver's room and inform the IT members than in the break area that Mike Riley was campaigning out in the parking area. According to Mr. Farimen, a short while later, Mr. Riley came into

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the drivers room for a brief moment and introduced himself and shook Mr. Farimen's hand. Mr. Farimen states that Mr. Riley did not remain in the drivers room or engage in other campaign activities during the few moments he was in the room.

Bruce Boyens also interviewed Mr. Moser and Mr. Riley in reference to Mr. Benson's allegations. Mr. Moser affirmed that he had gone to the Safeway facility with Mr. Riley on the date in question. Mr. Moser insists that Mr. Riley did not go inside the facility, but instead remained in the parking lot area consistent with the company policy permitting access to the parking lot for campaigning purposes.<sup>1</sup> Mr. Moser further stated that he himself went into the plant to use the telephone and only stuck his head in the drivers room to find out where the phone was. Mr. Moser also stated that he was not on Union time during the visit, since he had taken a personal day on that date to accompany Mr. Riley to various locations in the Phoenix area. Mr. Benson was present at the Local's meeting where Mr. Moser's use of a personal day was affirmed.

Mr. Boyens also interviewed Mr. Riley in reference to Mr. Benson's allegation. Mr. Riley denies that he had entered the Safeway building on September 13, 1991. Mr. Riley insisted that he remained in the parking lot area and only campaigned among the employees as they were entering and exiting the facility. Mr. Riley recalls that he remained in the employee parking lot area for approximately 45 minutes.

Bruce Boyens also interviewed Safeway representatives in reference to Mr. Benson's protest. Safeway personnel stated that prior to September 13, 1991 Terry Moser contacted the company to advise them that Mr. Riley would be coming to the parking lot area on September 13, 1991. Company representatives stated that to the best of their knowledge, Mr. Riley campaigned in the parking area and did not come inside the facility. The company further stated that if any supervisors had discovered that Mr. Riley had entered the facility, they would have escorted him immediately to the parking lot area in accordance with the Election Officer's resolution in Election Office Case No. P-892-LU104-RMT.

There is a factual dispute between Mr. Benson, his witness, Mr. Moser, Mr. Riley and the company. However, it is not necessary to resolve this dispute because the Election Officer's concludes that, even if Mr. Benson's and Mr. Farimen's version of events is accepted, the conduct alleged is insufficient to demonstrate that Mr. Riley was afforded greater access than the access to which the company agreed in Election Office Case No. P-892-LU104-RMT. Assuming Mr. Farimen's statements are accepted as

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<sup>1</sup> In Election Office Case No. P-892-LU104-RMT, Safeway agreed, consistent with the Election Officer's interpretation of the *Rules*, that IBT members not employed by it may have access to the employee parking lot at the Tempe warehouse facility for campaigning purposes.

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valid, Mr. Riley was inside the facility only momentarily. His campaign activities there were minuscule; he shook one member's hand. Even Mr. Moser's reference to Mr. Riley's presence in the parking lot, again assuming the truth of Mr. Farimen's statement, is not enough to conclude that campaigning occurred in the facility. Further, there is no evidence to demonstrate that the company consented to, or was aware of Mr. Riley's or Mr. Moser's presence inside the facility.

For these reasons and given the undisputed evidence that Mr. Moser was not being paid by Local 104 on September 15, 1991, 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  
Bruce Boyens, Regional Coordinator