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October 16, 1991

VIA UPS OVERNIGHT

Stuart Estrine
11150 Glenoaks Blvd. #26
Pacoima, CA 91331

Michael J. Riley
Secretary-Treasurer
IBT Local Union 986
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Jack Stephens, Esq.
The Price Company
2647 Ariane Dr.
San Diego, CA 92186-5466

Ed Farnum
The Price Company
10950 Sherman Way
Burbank, CA 91505

Re: Election Office Case No. P-946-LU986-CLA

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 ("*Rules*"). In his protest Stuart Estrine alleges that his rights under the *Rules* were violated by his employer, The Price Company, when managers removed campaign literature that Estrine had posted on a Union bulletin board and informed Estrine that he could no longer post campaign literature on that bulletin board. The Election Officer's investigation revealed the following.

Stuart Estrine is an employee of The Price Company ("Price") and a member of Local Union 986. He is employed at the Price facility in Burbank, California where he serves as one of the five shop stewards representing IBT members at that facility. Price has approximately 30 facilities on the west coast employing approximately 7,000 individuals. Price employees are represented by eight IBT Local Unions, including Local Union 986. Mr. Estrine is a supporter of Ron Carey and the members of his slate of candidates for International office in the IBT.

Mr. Estrine alleges that prior to June, 1991, there was no official Union bulletin board at the Price facility in Burbank. In response to a request from Estrine, a Union bulletin board was installed in the employees' break room. Also located in the break room are two general purpose bulletin boards. Estrine further alleges that since the installation of the Union bulletin board in June, until the removal of his campaign material by Price officials in September, 1991, he would regularly post Carey campaign

literature on the Union bulletin board with the knowledge and acquiescence of the management of the Burbank facility.

Each of the three bulletin boards in the break room of the Burbank facility is two feet by three feet in dimension. The general purpose bulletin boards are available for posting by employees, including the posting of campaign materials. If there is no space for posting on the bulletin boards themselves employees use the adjacent wall for posting. The employer does not remove postings that "spill over" onto the wall adjacent to the general purpose bulletin boards.

Price has informed the Election Officer that it has no objection to the posting of campaign material on general purpose bulletin boards in the break room of the Burbank facility or on similar general purpose bulletin boards at its other approximately 29 other west coast facilities. Price, however, does object to the posting of campaign material on Union bulletin boards. The employer cites Article XXVI(b) of the collective bargaining agreement for support of its contention that only official Union notices are to be posted on Union bulletin boards.¹

Under normal circumstances, Mr. Estrine's allegations, if found to be true, regarding the past practice regarding posting on the Union bulletin board at the Burbank facility and management knowledge and acquiescence of such posting, would serve as the basis of an order prohibiting the employer's modification of such practice.² However, in the instant case IBT members have a readily available means of posting

¹ Article XXVI(b) of the collective bargaining agreement between Price and the IBT provides that "[t]he Employer agrees to furnish space on the bulletin boards for Union to post official Union notices with a copy being given to management at the time of posting."

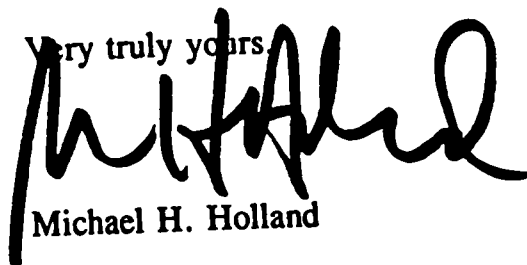
² See, e.g., In Re Hall, 90-Elec. App.-1 (Clear past practice of non-official postings on union bulletin board required that campaign postings be permitted); Helton v. NLRB, 656 F.2d 883 (D.C. Cir. 1981) (Union committed unfair labor practice when it refused to allow employees to post materials critical of union on the union's bulletin board, despite collective bargaining prohibition on such posting, where it was found that such prohibition had not been enforced in the past); Container Corp. of America, 244 NLRB no. 53, 102 LRRM 1162 (1979) (Employer violated LMRA when it removed union's news letters from bulletin boards and threatened employee with disciplinary action for any reposting of newsletters, since workers in past used bulletin boards to post personal and union notices without policing by employer); Vincent's Steak House, 216 NLRB 647 (1975) (An employer interfered with protected rights by removing an article about union picketing over another restaurant's rule that waitresses appear happy, since the bulletin board on which the notice was posted had always been available for personal use, in spite of a rule to the contrary).

campaign material on the general purpose bulletin boards at the Burbank facility as well as on other general purpose bulletin boards at the 29 other Price facilities on the West Coast. At Burbank, the only Price facility where Estrine contends the official Union bulletin board has been used for general purpose postings, the general purpose bulletin boards are in the same room where the official Union board is situated. No greater access would be afforded by posting on the official Union board as opposed to the general purpose boards.

The Election Officer therefore determines that the purposes of the *Rules* are adequately served by the readily available access of IBT members to the general purpose bulletin board for campaign posting and will not require the employer to permit campaign postings on the official Union bulletin boards. Based on the forgoing the Election Officer considers this matter RESOLVED.

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
Geraldine L. Leshin, Regional Coordinator