

OFFICE OF THE ELECTION OFFICER
% INTERNATIONAL BROTHERHOOD OF TEAMSTERS
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Michael H Holland
Election Officer

October 14, 1991

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VIA UPS OVERNIGHT

Warren Amond
24074 Rosewood Street
Taylor, MI 48180

Randal C. Owens
President, IBT Local Union 299
2741 Trumbull Ave.
Detroit, MI 48216

Preston Trucklines
6901 Stratton
Detroit, MI 48209

Re: Election Office Case No. P-951-LU922-MGN

Gentlemen:

This is a protest filed pursuant to the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("*Rules*"). The protester is Warren Amond, an IBT member and supporter of the International Union officer candidates on the Ron Carey Slate. He alleges that he was denied entry to the property of Preston Trucklines when he sought to distribute literature at the loading dock in the yard of the company. The protest was investigated by Adjunct Regional Coordinator Deborah Schaaf.

Article VIII, Section 10(d) of the *Rules* provides that no restrictions shall be placed on members' pre-existing rights to solicit support, distribute literature or otherwise engage in campaign activities on an employer's premises. In an Advisory Regarding Political Rights, issued on December 28, 1990, the Election Officer, *inter alia*, affirmed that IBT members who are not employed by a particular employer have certain rights, albeit more limited than those enjoyed by employees, to campaign among the employees they, or the International Union officer candidates they support, seek to represent. Under federal substantive labor law, the employer's right of private property must accommodate the members' right to engage in campaign activities. *E.g., Jean County*, 291 NLRB No. 4 (1988). The pre-existing rights provided by federal substantive law to union members include the right of reasonable access to their fellow union members working for another employer. *National Maritime Union v. NLRB*, 867 F.2d 767 (2d Cir. 1989). More specifically, where denial of all access to an employer's property would prevent face-to-face contact between the employees of that employer and the union members who wish to campaign among them, leaving them no effective alternative means of communication, the employer's right of private property must yield to a limited right of access for the union members. *Lechmere v. NLRB*, 914 F.2d 313 (1st Cir. 1990), *cert. granted*, 111 S.Ct. 1305 (1991); *Trident Seafoods Corp.*, 293 NLRB 125 (1989); *Jean Country*, *supra*.


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On-site investigation revealed that the loading dock is a work area of the facility. There is no evidence that Preston has ever permitted any campaigning by IBT members not employed by it on the loading dock.

IBT members who work at this Detroit facility of Preston park their cars in an open parking lot located across the street from the facility itself. Preston allows all IBT members, whether or not its employees, access to the employee parking lot at any time for campaigning activities. Preston also allows IBT members not employed by it campaign access to the employee locker room at the Detroit facility, provided advance notice is given. The investigation revealed no evidence that the employer has historically allowed any additional access to its facility for campaigning or other purposes.

There is no evidence that Mr. Amond was denied any "pre-existing right" to campaign at the Detroit facility of Preston. The evidence further demonstrates that access for campaign purposes is available without entry to the loading dock area. The employee parking lot across the street is used by all employees, and is open. The company permits campaigning in that lot. Campaigning in the parking lot provides ample opportunity for face-to-face campaigning between IBT members not employed by Preston among those so employed. Further, the company will permit IBT members not employed by it to have access to the employee locker room to engage in campaign activities. Such access provides an additional opportunity for contact between Preston's employees and other IBT members. The employer's requirement of some advance notice prior to campaigning in the locker room is not unreasonable. In view of all these facts, 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

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MHH/mjv

cc: Frederick B. Lacey, Independent Administrator
James De Haan, Regional Coordinator
Deborah Schaaf, Adjunct Regional Coordinator