

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

Cassens Transport
13475 Eldon
Detroit, MI 48234

Darren Logan, Security Guard
Vince Belevender, Supervisor
Cassens Transport
13475 Eldon
Detroit, MI 48234

Re: Election Office Case No. P-952-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 Cassens Transport when he sought to pass out literature to the IBT members employed at that location. 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

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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.

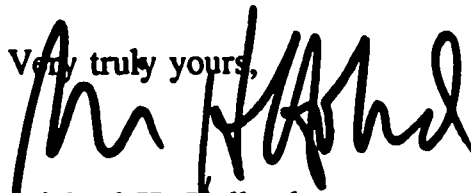
Because of the high crime rate in the neighborhood where the facility is located, Cassens has a strict rule which prohibits access to its property by anyone not employed by it. Even spouses of employees who come up to pick up their spouses' paychecks are governed by this policy.

All IBT members who work at this facility of Cassens park in a parking lot located adjacent to the premises. In order to enter the premises to go to work, the IBT members must exit the parking lot and cross a public area. An IBT member not employed by Cassens could stand just outside of the Cassens Transport property on the public area as the IBT members employed by Cassens walked to the Cassens yard. Campaigning at this location will provide ample opportunity for face-to-face campaigning between IBT members not employed by Cassens and those so employed.

There is no evidence that the employer has permitted IBT members not employed by it to campaign on its property in the past or that it has allowed anyone other than its employees or business invitees access to its property for any reason. There is ample opportunity for face-to-face campaigning outside the entrance to the employee parking lot, as IBT members employed by Cassens exit that lot to travel to work. Based upon 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