

OFFICE OF THE ELECTION OFFICER  
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Michael H Holland  
Election Officer

November 13, 1991

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**VIA UPS OVERNIGHT**

Chet Harty  
12600 4th Avenue, W 10E  
Everett, Washington 98204

Superior Cartage  
400 S.W. 34th Street  
Renton, Washington 98055

Allen McNaughton  
Secretary-Treasurer  
IBT Local Union 174  
553 John Street  
Seattle, Washington 98109

Re: Election Office Case No. P-982-LU174-PNW

Gentlemen:

A protest was filed pursuant to the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("*Rules*") by Chester Harty, a member of IBT Local 174. Mr. Harty alleges that his employer, Superior Cartage located in Renton, Washington, imposed a two-day disciplinary suspension against him on October 11, 1991, in retaliation for his campaign activities on behalf of the Ron Carey Slate. Mr. Harty contends that Superior Cartage thereby violated the *Rules*. The protest was investigated by Adjunct Regional Coordinator Patricia A. Warren.

Chester Harty has been employed by Superior Cartage for approximately 20 years. Since May of 1991, he has received four verbal warnings and, most recently, the two-day suspension which is the subject of the pending protest. All five infractions resulted from customer complaints about Harty's disruptive behavior while making deliveries. Harty did not protest or grieve the four verbal warnings.

Harty is a member of the Teamsters for a Democratic Union ("TDU") and has been active in the IBT International Union election campaign. He was a candidate for delegate to the 1991 IBT International Union convention on a slate supported by TDU; he has campaigned and continues to campaign for International General President candidate Ron Carey and the other candidates on the Ron Carey Slate; and he is supporting the candidacy of Bob Hasegawa, a TDU member who is running for business agent of Local 174. Harty also filed a complaint with the State of Washington about health and safety-related problems at his worksite which resulted in the imposition of penalties by the State of Washington against Superior and an order requiring Superior to make repairs to its facility and/or equipment. Harty believes that Superior is retaliating against him because of this complaint as well.

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Superior Cartage denies knowledge of Harty's political affiliation, but Terminal Manager Cliff Soike is aware of Harty's support for Mr. Hasegawa. In addition, one of the verbal warnings arose as a result of Harty's distribution of the TDU newspaper, Convoy Dispatch, to Safeway employees on Safeway property while they were working; Safeway complained to Manager Soike<sup>1</sup>. Thus, although Soike may not know the details of Mr. Harty's political involvement, he is at least aware of the parameters. Harty admits that no one at Superior Cartage ever said anything to him about his political activities.

In the incident which led to the suspension, Harty was attempting to make a delivery of a skid of brake drums to a customer called Six Roblees. The unloading required the assistance of a clerk to provide Harty a key so he could obtain a fork lift. According to Harty, the clerk refused to assist. Harty waited for about ten to fifteen minutes. When the clerk still refused to hand Harty the key, the clerk again responding that he did not have time, Harty got angry and left saying, "I don't have time for this bullshit, I have to get going." After reporting the incident to his dispatcher, Harty returned later that day to Six Roblees and completed the delivery. Terminal Manager Soike suspended Harty after receiving a complaint from the customer which was the fifth customer complaint Harty had received. Harty's grievance is pending.

Neither Harty nor Terminal Manager Soike can recall a similar situation involving a suspension after multiple customer complaints. Neither however could remember an employee receiving as many customer complaints as Harty received in as short a period of time.

It is undisputed that an incident occurred at Six Roblees which caused the customer to complain. It is also undisputed that other customers have complained about Mr. Harty. While Mr. Harty may disagree with Six Roblees about the nature of the incident, it is not unreasonable for Superior Cartage to have acted upon the complaint, particularly in view of Mr. Harty's recent history. There is no evidence to indicate that the imposition of discipline was in any way related to Harty's campaign activities or his political positions or affiliations. While the severity of the discipline may be open to

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<sup>1</sup> While the *Rules* permit IBT members to engage in campaign activities in non-work areas during non-work time among members who themselves are on non-work time, discipline for campaigning during work time or among members who are on work time does not violate the *Rules*. Mr. Harty does not contend otherwise and admits that the Safeway employees were on work time when Harty was distributing Convoy Dispatch to them.

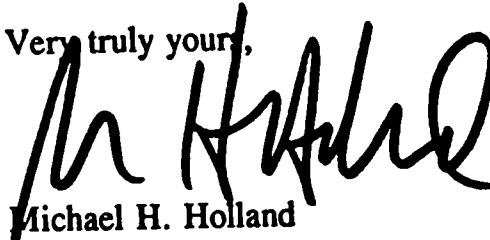
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question, there is no evidence that other employees in analogous situations have been treated less harshly.<sup>2</sup>

In sum, there is no evidence to support a conclusion that Superior Cartage retaliated against Mr. Harty because of his campaign activities and the protest is therefore DENIED.<sup>3</sup>

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/ca

cc: Frederick B. Lacey, Independent Administrator

Christine M. Mrak, Regional Coordinator

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<sup>2</sup> Harty's pending grievance may well deal with the issue of the severity of the discipline.

<sup>3</sup> The Election Officer is not determining whether cause exists for the discipline or whether Superior's action in imposing discipline violated the collective bargaining agreement between Superior and the Union. All the Election Officer decides is that the evidence is sufficient to rebut the inference that Superior suspended Harty in retaliation for his participation in campaign activities protected by the *Rules*.