

November 25, 1996

VIA UPS OVERNIGHT

Randy Olsen
1825 San Jose
San Leandro, CA 94577

United Parcel Service
8400 Pardee Drive
Oakland, CA 94610

Marty Frates
Teamsters Local Union 70
70 Hegenberger Road
Oakland, CA 94621

Martin Wald
Schnader, Harrison, Segal & Lewis
1600 Market Street, Suite 3600
Philadelphia, PA 19103

Re: Election Office Case No. P-1208-LU70-CSF

Gentlemen:

Randy Olsen, a member of Local Union 70, filed a pre-election protest pursuant to Article XIV, Section 2(b) of the *Rules for the 1995-1996 IBT International Union Delegate and Officer Election ("Rules")* against Marty Frates, a member and business agent of Local Union 70, and UPS in Oakland, California. The protester contends that Mr. Frates has been permitted to park his vehicle with campaign stickers and signs supporting "Hoffa-Mack" in the "red zone" of the employee parking lot at UPS, where other employees are not permitted to park. The protester also alleges that Mr. Frates wears his "Hoffa-Mack" campaign hat to every local and NorCal grievance panel where employers are present.

Mr. Frates does not dispute that he has parked his car in the red zone for four years. He notes that UPS has not condoned such conduct and he knows it violates UPS rules. As to wearing the campaign hat, Mr. Frates states that he removes his hat when grievance panels meet.

UPS Labor Relations Representative Kim Muniz responds that UPS has had ongoing problems with Mr. Frates violating its parking rules, and has received numerous incident reports on him. They do not condone his conduct. Ms. Muniz corroborates that Mr. Frates removes his campaign hat at

local review meetings and NorCal grievance meetings.

This protest was investigated by Adjunct Regional Coordinator Victoria Chin.

The investigation revealed that Mr. Frates has parked his vehicle in the red zone at UPS for at least two years.¹ Mr. Frates vehicle has Hoffa-Mack bumper stickers on the front and the back bumpers. Mr. Frates contends that he does this in violation of UPS rules to let the company know that “he does not play by their rules.”

UPS states that it has had a lot of problems with Mr. Frates violating their policies. He has received at least one parking violation notice from UPS. UPS states that it has asked Local Union 70 Secretary-Treasurer Chuck Mack for cooperation, but he has not responded.

Article VIII, Section 11(d) of the *Rules* provides, in pertinent part:

“[N]o restrictions shall be placed upon candidates’ or members’ preexisting rights to solicit support, distribute leaflets or literature . . . or engage in similar activities on employer or Union premises. Such facilities and opportunities shall be made available to all candidates and members on a nondiscriminatory basis.

The Election Officer has stated that “[i]f an employer chooses to allow campaigning on their premises, it may do so as long as equal access is provided to all candidates pursuant to Article VIII, Section 11(d).” Burrows, P-118-LU70-CLA (September 13, 1995), aff’d, 95 - Elec. App. - 16 (KC) (September 30, 1995).

Here, the evidence is that Mr. Frates has parked his car in an improper location even prior to the election. However, UPS notes that this conduct is in violation of their procedures and it has been disturbed by it. While the protester requests the right for Carey supporters to park their vehicles in the same location with campaign paraphernalia attached, the Election Officer does not find that equal access is inappropriate in this case. Mr. Frates is not permitted to campaign on employer property other than parking his vehicle in the employee parking lot. See Rules, Article VIII, Section 11(e). Therefore, the Election Officer directs Mr. Frates to move his vehicle for the duration of the International officer election.

As to the allegation of wearing campaign paraphernalia at grievance meetings, the witness supplied by Mr. Olsen did not support the allegation. Moreover, Mr. Frates’ statement that he has not worn campaign hats in grievance meetings is corroborated by UPS.

¹The red zone is a no-parking area located by the entrance to the facility.

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Accordingly, the protest is GRANTED as to Mr. Frates parking his vehicle in the red zone and DENIED in all other respects.

When the Election Officer determines that the *Rules* have been violated, she “may take whatever remedial action is appropriate.” Article XIV, Section 4. In fashioning the appropriate remedy, the Election Officer views the nature and seriousness of the violation, as well as its potential for interfering with the election process.

Mr. Frates shall immediately cease and desist from parking his vehicle in the red zone at UPS if it displays any campaign paraphernalia. This cease-and-desist order shall continue through December 10, 1996.

Any interested party not satisfied with this determination may request a hearing before the Election Appeals Master within one day of 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:

Kenneth Conboy, Esq.
Latham & Watkins
885 Third Avenue, Suite 1000
New York, NY 10022
Fax (212) 751-4864

Copies of the request for hearing must be served on the parties listed above as well as upon the Election Officer, 400 N. Capitol Street, Suite 855, Washington, DC 20001, Facsimile (202) 624-3525. A copy of the protest must accompany the request for a hearing.

Sincerely,

Barbara Zack Quindel
Election Officer

cc: Kenneth Conboy, Election Appeals Master
Victoria Chin, Adjunct Regional Coordinator