

January 30, 1996

**VIA UPS OVERNIGHT**

William Pike  
8523 Cole Street  
Downey, CA 90242

Ed Mireles, Secretary-Treasurer  
Teamsters Local Union 952  
140 S. Marks Way  
Orange, CA 92668

Lucky Stores, Inc.  
6565 Knott Avenue  
Buena Park, CA 90620

**Re: Election Office Case No. P-278-LU952-CLA**

Gentlemen:

A pre-election protest was filed pursuant to Article XIV, Section 2(b) of the ***Rules for the 1995-1996 IBT International Union Delegate and Officer Election ("Rules")*** by William Pike, a member of Local Union 952, against his former employer, Lucky Stores, Inc., and the local union. The protester alleges that a number of documents from the Teamsters for a Democratic Union ("TDU") concerning the upcoming election of International officers which were posted on an employee bulletin board in the work place were removed by Lucky Stores, in violation of the ***Rules***. He claims that Local Union 952 cooperated in the removal of the notices.

Lucky Stores and the local union contend that they were unaware of both the posting of the documents and their removal from the bulletin board.

The protest was investigated by Associate Regional Coordinator Glenn Rothner.

Article VIII, Section 11(d) of the ***Rules*** states: "No restrictions shall be placed upon candidates' or members' preexisting rights to use employer or Union bulletin boards for campaign publicity."

The protester was formerly employed as a truck driver by Lucky Stores in its Buena Vista facility. Lucky Stores suspended Mr. Pike pending investigation on July 28, 1995 and terminated his employment on October 27, 1995. He states that on the wall of the dispatch

office in the Transportation Department, there is a bulletin board on which employees post ads and notices concerning cars for sale, houses for rent, and similar matters. According to Mr. Pike, approval from the company is not required for these postings.

Mr. Pike claims that in early December 1995, Lucky Stores removed five documents from the employee bulletin board. The first document, addressed to "All Teamster Employees," informed members that their local union "is responsible for sending your duly appointed Delegates" to the upcoming International convention to insure that the candidate of their choice is placed on the ballot. The notice advised members to contact either their local union or the TDU for more information. Members were further advised to contact Mr. Pike "at the offices of Employee Rights Committee" if their right under federal law "to possess, distribute and post this flyer during non-work times in non-work areas was violated."<sup>1</sup>

The second notice, addressed to "Southern California Teamsters," provided information about an upcoming TDU meeting and included the phone number of the TDU's California office. The third posting, titled "Your Rights as a TDU Member," provided general information about federal labor laws, the rights of union members, and the role and responsibilities of unions. The fourth document was an open letter to employees, signed by Mr. Pike, describing the Employee Rights Committee and the reasons for its formation. The final document posted was a TDU publication which contained several articles reprinted from the *Los Angeles Times* about dissidents within the Teamsters Union.

Of the five documents submitted by the protester, only the notice entitled "All Teamster Employees" refers to the election of delegates to the International convention. The remaining documents provide information outside the jurisdiction of the Election Officer as set forth in the **Rules**.<sup>2</sup> Accordingly, the instant decision concerns the first document only. See Dunning, Case No. P-206-LU486-MGN (November 9, 1995).

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<sup>1</sup> Mr. Pike states that he and several other Lucky Stores employees recently formed the Employee Rights Committee "in response to Teamster Local 952 ... and Lucky Stores constant denial of our contractual rights . . ."

<sup>2</sup> Under Article I of the **Rules**, the Election Officer is empowered to "supervise all phases of the International Union delegate and officer election . . . [and] has the authority to hear and determine . . . protests and appeals concerning the election."

In several communications with the Associate Regional Coordinator, the protester states that he can produce several witnesses who will testify that "they personally saw Lucky Labor Relations manager, Mr. Calvin Bussi in possession of our ERC [Employee Rights Committee] documents which we did post on the employee bulletin board." He refers to "additional witnesses" who will testify should the Election Officer "require their testimony." However, none of the witnesses subsequently identified by the protester confirmed the protester's contention, nor did they connect Mr. Bussi or any other management personnel with the removal of the notices.

Mr. Bussi states that while employees need not obtain permission from the company to post notices on the employee bulletin board, management will remove items which the company finds objectionable. For example, Lucky Stores removed a cartoon from the board which was critical of Local Union 952's performance in handling grievances. However, Mr. Bussi insists that he was unaware that the documents described by Mr. Pike were posted on the employee bulletin board. He states that he spoke with every manager and supervisor in the Transportation Department, none of whom knew anything about such postings or their alleged removal.

The protester alleges that Local Union 952 cooperated with the employer in removing the posted documents. He did not elaborate on this claim or provide any witnesses to support his allegation. The president of Local Union 952, Harry Ashley, serves as the business agent for Lucky Store's Buena Park facility. Mr. Ashley states that he did not know an employee bulletin board existed in the Transportation Department.<sup>3</sup>

The Election Officer has consistently denied a protest when the protester offers no evidence to corroborate and support his or her allegations. See Rodriguez, Jr., Case No. P-241-LU630-CLA (January 10, 1996) (protester's claim that his local union collaborated with his employer to remove campaign literature from a union bulletin board denied for lack of evidence). In In Re: Chentnik, 95 - Elec. App. - 52 (KC) (January 10, 1996), the Election Appeals Master affirmed the Election Officer's denial of the protest due to insufficient evidence. The Election Appeals Master stated: "Where the parties differ as to material facts, the Election Officer looks to the protestor, who bears the initial burden of proof, to offer evidence substantiating his allegations."

In the instant protest, there were credible denials of any improper conduct by the parties charged. Mr. Pike provided no information or witnesses who could support his allegations against Lucky Stores and Local Union 952. Accordingly, the protest is DENIED.

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:

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<sup>3</sup> Local Union 952 maintains a separate bulletin board on the premises which is locked and has a glass cover.

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Copies of the request for hearing must be served on the parties listed above as well as upon the Election Officer, 400 North Capitol Street, Suite 855, Washington, D.C. 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  
Glenn Rothner, Associate Regional Coordinator