

September 24, 1996

**VIA UPS OVERNIGHT**

Sergio N. Ocegüera  
2102 Woodview  
Wilmington, IL 60481

Daniel Hornbeck  
Yellow Freight  
10990 Roe Avenue  
Overland Park, KS 66211

Bob Zbonski  
Yellow Freight  
10301 S. Harlem Avenue  
Chicago Ridge, IL 60415

Robert Muehlenkamp, Director  
Organizing Department  
International Brotherhood of Teamsters  
25 Louisiana Avenue, N.W.  
Washington, DC 20001

**Re: Election Office Case No. P-910-LU705-CHI**

Gentlemen:

Sergio N. Ocegüera, a member of Local Union 705, filed a pre-election protest pursuant to Article XIV, Section 2(b) of the ***Rules for the IBT International Union Delegate and Officer Election ("Rules")*** alleging that Yellow Freight System, Inc. violated the parking-lot-access provisions of the ***Rules*** when it threatened him and IBT member Robert Muehlenkamp with arrest in order to stop them from putting campaign literature on cars in the employee parking lot at Yellow Freight's facility in Chicago Ridge, Illinois. Mr. Ocegüera also alleges that Yellow Freight violated the parking-lot-access rules by otherwise purporting to restrict his campaigning to a 10 x 15-foot area designated as the parking lot for motorcycles.

Yellow Freight responds that all employees who use the two parking lots at its Chicago Ridge facility must pass through a single pedestrian gate about 20 feet from the motorcycle parking lot. It states that it asked Messrs. Ocegüera and Muehlenkamp to campaign from that vicinity. It further states that it called the police after Messrs. Ocegüera and Muehlenkamp left the area near the gate, entered one of the lots to put campaign material on cars, and refused to leave. After the police intervened, Messrs. Ocegüera and Muehlenkamp stayed in the area near the pedestrian gate.

This protest was investigated by Regional Coordinator Julie E. Hamos.

Article VIII, Section 11(e) of the ***Rules*** creates a limited right-of-access to IBT members and candidates to distribute literature and seek support for their campaign in any parking lot used

by union members to park their vehicles in connection with their employment. While “presumptively available,” this right is not without limitations. It is not available to any employee on working time, and candidates and their supporters cannot solicit or campaign to employees who are on working time. It is also restricted to campaigning that will not materially interfere with an employer’s normal business activities.

The right-of-access to parking lots protects the ability of IBT members to engage in face-to-face campaigning. It does not extend to placing campaign material on vehicles in parking lots. Terrazas, P-914-LU63-CLA (September 11, 1996); Maxwell, P-731-LU24-CLE (April 25, 1996). Therefore, to the extent that Mr. Ocegüera’s protest alleges that Yellow Freight violated the **Rules** by preventing him and Mr. Muehlenkamp from putting material on cars in the Yellow Freight parking lot, the protest is DENIED.

With respect to Yellow Freight’s position that IBT members should restrict campaign activity to the area near the pedestrian gate through which all employees who park their cars must pass, the Regional Coordinator viewed the parking lot in question and discussed the matter with Yellow Freight and the protester. Yellow Freight states that it did not tell Messrs. Ocegüera and Muehlenkamp that they had to stand within the motorcycle parking lot itself and that it mentioned that lot for ease of reference to the area near the pedestrian gate. It further states that it does not want campaigners to block the gate or pass generally through the parking lots, the ends of which are as far as two blocks from the guard house. The protester has agreed to campaign from the area between the motorcycle parking lot and the pedestrian gate.

Under these circumstances, the Election Officer concludes that further processing of this protest is unwarranted. The protester’s complaints, to the extent they are meritorious, have been addressed and the relief requested has been achieved. Except as denied above, the Election Officer finds that this protest is RESOLVED.

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.

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Sincerely,

Barbara Zack Quindel  
Election Officer

cc: Kenneth Conboy, Election Appeals Master  
Julie E. Hamos, Regional Coordinator