

August 10, 1998

VIA UPS OVERNIGHT

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Thomas W. Leedham
c/o Thomas W. Leedham Campaign Office
Post Office Box 15877
Washington, DC XXX-XX-XXXX

Robert A. Hasegawa, Secy. - Treas.
Teamsters Local Union 174
553 John Street
Seattle, WA 98109

Re: Election Officer Case No. PR-155-LU174-PNW

Gentlemen:

Rick Hicks, a member of Local Union 174, 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 Pat Frey, a Local Union 174 business agent. Mr. Hicks alleges that Mr. Frey used his status as a business agent in order to gain entry and to campaign for Tom Leedham, a candidate for general president, at a United Parcel Service ("UPS") facility in Kent, Washington. Mr. Frey responds that he was at the UPS facility on union business, and when he was asked if he had a Leedham campaign button he took one from his pocket and handed it to the employee. Mr. Frey claims that if this was campaigning, it was incidental to his regular union business.

The protest was investigated by Adjunct Regional Coordinator Paige Keys.

Mr. Frey went to the UPS facility on June 26, 1998. He gained access in his capacity as a local union business agent. Mr. Frey talked to Bill Byington, a shop steward at the facility, about a union business meeting on the following Tuesday. During the conversation, Mr. Byington asked Mr. Frey if he had a Leedham button and Mr. Frey (who states he only had one button) handed a Leedham button to Mr. Byington. Mr. Byington states that the whole conversation lasted about three minutes because Mr. Frey had to go to a meeting on the other side of the building. In their interviews, Mr. Frey and Mr. Byington described the substance of their conversation, and the communication about the Leedham button, in the same way.

The protester basically concurs with this version but states that after Mr. Frey handed Mr. Byington a Leedham button, he attempted to give one to George Bell, another employee. Mr. Bell states that he was in the locker room where Messrs. Frey and Byington were discussing

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a grievance. He observed Mr. Frey reach into his bag or coat and hand Mr. Byington a Leedham button. Mr. Bell states that as Mr. Frey was leaving the locker room, he made a gesture to Mr. Bell to have a button but saw that Mr. Bell was wearing a Hoffa button and withdrew.

Article VIII, Section 11(b) of the *Rules* states that “officers and employees . . . of the Union may not campaign on time that is paid for by the Union. Campaigning incidental to regular Union business is not . . . violative [of the *Rules*].” The Election Officer has applied the “incidental” exception to campaign-related conversations that local union officers and employees have with members while transacting legitimate union business, Raymond, P-434-LU572-CLA et seq. (March 14, 1996); Newhouse, P-253-LU435-RMT (January 4, 1996), as well as to brief, campaign-related parts of conversations that were otherwise about legitimate union business. Jackson, P-842-LU612-SEC (August 14, 1991); Draeger, P-486-LU823-MOI (February 20, 1991). Brief campaigning before or after legitimate union business also may fall within the bounds of incidental campaigning. Dillon, P-467-LU284-CLE (March 4, 1991).

The Election Officer finds that Mr. Frey was at the facility to conduct legitimate union business and indeed was engaged in a union business conversation with Mr. Byington. Although he did give Mr. Byington a Leedham button, this conduct clearly falls within the “incidental to union business exception” to the rule against campaigning on union time.

Accordingly, the protest is DENIED.

Any interested party not satisfied with this determination may request a hearing before the Election Appeals Master within one (1) 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, 444 North Capitol Street, NW, Suite 445, Washington, DC 20001, Facsimile (202) 624-3525. A copy of the protest must accompany the request for a hearing.

Sincerely,

Richard O. Hicks
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Michael G. Cherkasky
Election Officer

MGC:chh

cc: Kenneth Conboy, Election Appeals Master
Paige Keys, Adjunct Regional Coordinator