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January 9, 1991

VIA UPS OVERNIGHT

Gordon Teller
22332 17th Place, West
Bothell, WA 98021

Larry Stroessner
Business Agent
IBT Local Union 174
553 John Street
Seattle, WA 98109

Al McNaughton
Secretary-Treasurer
IBT Local Union 174
553 John Street
Seattle, WA 98109

Re: Election Office Case No. P-097-LU174-PNW

Gentlemen:

A pre-election protest was filed pursuant to Article XI of the Rules for the IBT International Union Delegate and Officer Election, revised August 1, 1990 ("Election Rules"). In his protest the complainant, Gordon Teller, alleges that his rights under the Election Rules were violated by Larry Stroessner, a Business Agent for Local Union 174, and Al McNaughton, the Secretary-Treasurer of the Local Union. Specifically, Teller alleges that Stroessner and McNaughton interfered with his right to distribute literature and solicit signatures inside the union hall. In addition, Teller alleges that McNaughton violated the Election Rules when he called him a liar in front of a number of IBT members because of his testimony before Independent Administrator Lacey in a protest appeal involving Richard Kraft and Local Union 174. Finally, Teller alleges that McNaughton violated the Election Rules when he placed his hand on Teller's shoulder to direct him back to the front door of the union hall where he was distributing campaign material and soliciting signatures. The Election Officer's investigation revealed the following.

On December 1, 1990, Teller, Doug Frechin and Richard Kraft (collectively, "campaigners") were at the Joint Council 28

building, which is also used for meetings by Local Union 174 as well as a number of other IBT Locals, to hand out literature and solicit signatures on an accreditation petition. The campaigners were at the hall at approximately 6:30 am because a commercial drivers license training and testing session was scheduled to start at 7:00 am. While Teller, Frechin and Kraft began their activities outside of the building they soon moved inside because of the weather.

Teller, Frechin and Kraft positioned themselves just inside the entrance of the building. There were approximately 180 IBT members who attended the class, with most of them arriving between 6:45 and 7:00 am. While the campaigners did not bar access to the hall, they did cause some congestion near the entrance, particularly when members stopped to talk or sign the petition. Soon after they began their activities inside the building, they were approached by Stroessner who told them that they had no right to distribute literature and solicit signatures inside the building. Stroessner asked them to leave; the campaigners refused and continued their activity.

Shortly after the discussion with Stroessner, Al McNaughton approached Teller, Frechin, and Kraft. McNaughton also told them that they had no right to solicit or distribute literature inside the hall. McNaughton and Teller then got into an argument about Teller's testimony during a hearing before Independent Administrator Lacey on an appeal by Kraft. Both McNaughton's and Teller's voices were raised and the exchange was overheard by a number of other members. After the brief exchange, McNaughton walked away and up a stairway to a landing overlooking the entrance where Teller, Frechin and Kraft continued their activity.

McNaughton did not react to the distribution of campaign material. However, when a member stopped to talk to one of the campaigners or sign their petition, McNaughton called out from the landing that the petition was not a sign in sheet for the commercial license course and that the campaign activity was not sanctioned by the Local Union. After this happened a few times Teller climbed the stairs to where McNaughton was standing and told him to stop interfering with their campaign activity. Teller told McNaughton to read the Election Rules and held a copy in front of his face. McNaughton put his hand on Teller's shoulder and told him to return to the entrance area where he had been campaigning. After some further discussion about the Election Rules and the right to distribute literature and solicit signatures inside the hall, Teller returned to the entrance and continued his activity until shortly after the class started at 7:00 am. Teller, Frechin and Kraft left the hall of their own accord.

There is no past practice of distributing campaign literature or soliciting signatures on campaign petitions inside the union hall. Similarly, no other candidate or campaign in the current

delegate or International Officer campaign has distributed literature or solicited signatures inside the hall. There has been a past practice of wearing campaign buttons and shirts inside the hall. The Local Union has not interfered with, or attempted to restrain, this latter practice.

Article VIII, Section 10 of the Election Rules guarantees the right of all IBT members to participate in campaign activities. Subsection (d) provides that no restriction shall be placed upon pre-existing rights "to solicit support, distribute leaflets or literature . . . on employer or Union premises". In the instant case, the campaigners clearly had the right to wear campaign buttons, shirts, jackets or caps in the union hall. Similarly, there is no dispute that IBT members have the right to talk about campaign issues with fellow members inside the union hall. However, such discussions, like any other discussions between members, should not disrupt union meetings.

The distribution of campaign literature and the solicitation of signatures on campaign petitions involves conduct in addition to speech or an expression of support for a candidate. The complainant has the right to engage in such conduct outside of the union hall, even if this conduct takes place on property owned or controlled by the union. However, absent a past practice permitting such conduct inside the union hall, or evidence that the complainant has been denied the right to engage in such conduct on a discriminatory basis, the Election Rules do not authorize the distribution of campaign literature and the solicitation of signatures on petitions inside the union hall. Therefore, the Election Officer concludes that the Election Rules were not violated when the complainant was asked to refrain from distributing literature and soliciting signatures inside of the union hall.¹ Nor does the Election Officer find that McNaughton's statements to members that the petition was not a sign in sheet and that the campaigners' activity was not sanctioned by the Local Union were violations of the Election Rules.

The Election Officer also finds that McNaughton's statement that Teller lied in his testimony before Independent Administrator Lacey is not violative of the Election Rules. Members of the IBT have an absolute right to file protest under the Election Rules and to participate in proceedings concerning such protests. Members of the IBT cannot be disciplined or discriminated against in any way because of their filing of a protest or for giving testimony to the Election Officer or the Independent Administrator. However,

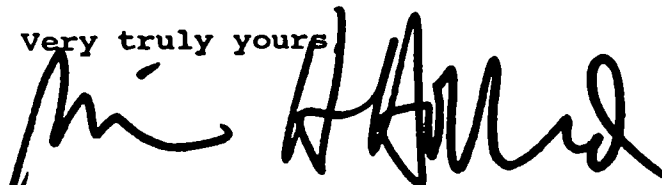
¹In fact, it should be noted that despite the instructions to cease their solicitation and distribution activities inside the Union Building, which the Election Officer finds not to be violative of the Rules, the campaigners continued to campaign until they voluntarily left the building.

in the instant case, McNaughton's statement that Teller lied in the hearing before Independent Administrator Lacey does not constitute discipline or discrimination and is, therefore, not violative of the Election Rules.

The allegation that McNaughton placed his hand on Teller's shoulder raises a more difficult issue for the Election Officer. The allegation that a member of the IBT has been the subject of an act, or a threat, of physical harm for engaging in campaign activities is among the most serious violations of the Election Rules considered by the Election Officer. Such allegations are carefully considered and strong remedies are imposed in cases where such conduct is proven. However, in the instant case the Election Officer's investigation revealed that Teller was confronting McNaughton and McNaughton's reaction of placing his hand on Teller's shoulder and telling him to go back to where we was, while possibly inappropriate, was not violative of the Election Rules. Teller does not allege that he was struck or that he was fiscally intimidated by McNaughton's gesture. Mr. Teller continued after and despite this incident to engage in his campaign conduct and voluntarily left the union hall only after the training session started.

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
Election Officer

cc: Frederick B. Lacey, Independent Administrator, IBT
Christine M. Mrak, Regional Coordinator