



OFFICE OF THE ELECTION OFFICER
% INTERNATIONAL BROTHERHOOD OF TEAMSTERS
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Michael H. Holland
Election Officer

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January 15, 1992

VIA UPS OVERNIGHT

Roger Gillan
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Robert Borri
Consolidated Freightways, Inc.
P.O. Box 481
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Consolidated Freightways, Inc.
Attn: John McGrath, Dispatch Manager
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Gerald F. Reilly
President
Teamsters Local 722
344 N. 40th Road
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Tony Rue
Consolidated Freightways, Inc.
P.O. Box 481
Peru, IL 61354

Re: Election Office Case No. P-1076-LU722-SCE

Gentlemen:

On October 31, 1991, Roger Gillan, a member of Local Union 722, contacted the office of the Independent Administrator contending that certain Local 722 members employed by Consolidated Freightways ("CF") had been threatened by CF supervisory employees because of their support for Ron Carey and the Ron Carey Slate. By letter dated November 4, 1991, the Independent Administrator referred the matter to the Election Officer noting that "this matter should be addressed by your office in the first instance." In accordance with that reference and pursuant to his authority under Article XI, § 2 of the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("*Rules*"), the Election Officer treated such reference as a protest under the *Rules*. The protest was investigated by Regional Coordinator Peggy A. Hillman.

Mr. Gillan contends that in June 1991, Tony Rue, a CF supervisor with responsibility for the dock at CF's Peru, Illinois terminal, told Russell Duncan, a CF employee working on the dock, that he, Mr. Duncan, was going to be fired, Mr. Rue adding that "even Ron Carey won't help you out." Shortly thereafter, Mr. Duncan was indeed discharged but the matter was resolved in the grievance procedure, under the terms of collective bargaining agreement between IBT and CF, to Mr. Duncan's satisfaction.

Roger Gillan
January 15, 1992
Page 2

CF denies that Mr. Duncan was discharged because of his support for Ron Carey and the Ron Carey Slate. It contends rather that he was discharged for the destruction or vandalizing of company property during a work shift when he was guilty of further offenses, specifically, failure to work and insubordination. CF contends that it and its supervisors were unaware of Mr. Duncan's partisan political leanings and denies that Mr. Rue made any references to Mr. Carey. Other evidence uncovered by the Election Officer during his investigation of this protest indicates, however, that Mr. Rue in fact invoked Mr. Carey's name during a discussion between Mr. Rue and Mr. Duncan involving Mr. Duncan's excuse for being absent for work because of illness; Mr. Rue threatened to fire Mr. Duncan and indicated that Mr. Carey would be unable to help Mr. Duncan with respect to such discharge.

The event in question occurred in June 1991. No protest was filed until Mr. Gillan's protest of October 1991. While the Election Officer--given the nature of the allegation--would be disinclined to determine the protest based on the issue of timeliness alone, the lapse of four months between the incident and the protest cannot be overlooked.

Further, Mr. Duncan, although discharged by CF, was returned to employment in a grievance settlement satisfactory to him shortly after the date the discharge was imposed. Since June 1991, Mr. Duncan has not been subject to further discipline or threats of discipline based upon his support of Mr. Carey or the Ron Carey Slate. CF has previously been made aware of the disfavor with which the Election Officer views harassment and discipline of IBT members because of such members' partisan political positions and the determination of the Election Officer to take appropriate remedial action including reversal of discipline and monetary remedies. See, e.g., Election Office Case No. P-815-LU722-SCE, affirmed 91-Elec. App.-192; Election Officer Case Nos. P-820-LU722-SCE and P-830-LU722-SCE, affirmed 91-Elec. App.-186. Under these circumstances, the Election Officer concludes that no additional remedies are necessary at this point to effectuate the purposes of the *Rules* with respect to the allegations concerning Mr. Duncan.

The second portion of Mr. Gillan's protest concerns threats purportedly made to David Olson, also a dock employee, by another dock supervisor, Bob Borri. Mr. Gillan contends that Mr. Olson was issued warning notices by Mr. Borri and other supervisors because of Mr. Olson's participation in the 1991 IBT International Union officer election; Mr. Gillan also contends that at the time Mr. Borri made these threats, he simultaneously told Mr. Olson that he also could not expect any help from Ron Carey.

Mr. Olson filed grievances on October 28, 1991 and November 6, 1991 protesting the warning letters issued him, contending they were issued in retaliation for his support for Ron Carey and the Ron Carey Slate. Pursuant to the collective bargaining agreement

Roger Gillan
January 15, 1992
Page 3

between CF and the IBT, since Mr. Olson has not received any actual discipline, i.e., has not been suspended or discharged, the grievances protesting the warning letters will remain pending. If Mr. Olson is subsequently suspended or discharged, the grievances concerning the warning letters he received will be resolved to determine whether Mr. Olson received proper prior progressive discipline as mandated by the collective bargaining agreement. Further, under the terms of the collective bargaining agreement, if Mr. Olson is not suspended or discharged within nine months from the date he received any particular warning letter, that warning letter cannot be used against him to justify suspension or discharge.

CF denies that it issued warning letters to Mr. Olson because of his partisan political position in the recently concluded 1991 IBT International Union officer election. It contends that the warning letters were issued to Mr. Olson based upon his misconduct. The company has submitted evidence demonstrating that warning letters for similar misconduct have been issued other employees and that indeed Mr. Olson himself received prior similar warning letters before the commencement of the 1991 IBT International Union officer election.

The company specifically denies that Mr. Borri made any reference to Mr. Carey in any of his discussions with Mr. Olson. CF further contends that the statements attributed by Mr. Olson to Mr. Borri—neither Mr. Gillan nor any other person having heard the statements—being almost identical to the statements attributed to Mr. Rue, undermine the credibility of Mr. Olson's allegations.

In this situation also, the Election Officer concludes that it will not effectuate the purpose of the *Rules* for him, at this time, to issue any determination with respect to these allegations. To date, Mr. Olson has been neither suspended nor discharged. If he is within nine months of the date the warning letters were issued to him, the propriety of those warning letters—including his contention that the warning letters were issued in retaliation for his election activity as demonstrated, at least in part, by Mr. Borri's statement—will be resolved in the grievance procedure. If Mr. Olson is not disciplined or discharged within nine months from the date he received the warning letters, the warning letters can no longer be used against him and the matter will have become moot.

Further, as noted above, CF is well aware of the disfavor with which the Election Officer views harassment or retaliation of IBT members because of their participation in the 1991 IBT International Union officer election and well aware that he will not hesitate to revoke discipline or impose monetary awards if retaliation is discovered. Under these circumstances, no basis exists for the imposition of additional remedies at

Roger Gillan
January 15, 1992
Page 4

this time.¹

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

MHH/ca

cc: Frederick B. Lacey, Independent Administrator
Peggy A. Hillman, Regional Coordinator

¹ Should Mr. Olson be suspended or discharged and the warning letters issued to him in October and November 1991 be utilized to sustain such discipline or discharge, a new protest may be filed at that time. The Election Officer would note, however, that the evidence strongly suggests no impropriety in connection with the warning letters issued to Mr. Olson. Mr. Olson's allegation that he has been falsely accused of involvement in harassing and disparaging Mr. Borri—and threatened with disciplinary action for engaging in such pranks—because of his support for Ron Carey and the Ron Carey Slate is clearly undermined by the evidence presented demonstrating that Mr. Olson has personally engaged in such pranks and harassment of Mr. Borri. This evidence standing alone strongly suggests that Mr. Olson's credibility—and thus, his allegations of retaliation—are not entitled to great weight.

Roger Gillan
January 15, 1992
Page 5

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