



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

November 14, 1991

Chicago Office:  
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343 South Dearborn Street  
Chicago, IL 60604  
(312) 922-2800

**VIA FAX AND UPS OVERNIGHT**

Robert W. Howe  
2284 Sugar Bottom Road, N.E.  
Solon, IA 52333-9589

United Technology Automotive  
Attn: Labor Relations Dept.  
2500 Highway 6 East  
Iowa City, IA 52240

Robert E. Schorg  
Secretary-Treasurer  
IBT Local Union 238  
5000 "J" Street, S.W.  
Cedar Rapids, IA 52406

**Re: Election Office Case No. P-1083-LU238-MOI**

Gentlemen:

A protest was filed with the Election Office 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 Robert W. Howe alleges that his rights under the Election Rules were violated by United Technology Automotive ("United") when it directed him to remove his campaign literature from the wind shields of cars parked in the employee parking lot and told him to leave company property. The Election Officer's investigation revealed the following.

The United facility in Iowa City, Iowa is located on Highway 6, a heavily traveled roadway. Employees entering the facility by car turn off Highway 6, pass through an unguarded gate, park their cars in an employee parking lot and proceed on foot to the facility through another gate which is guarded by a guard shack. At approximately 1:30 p.m., November 12, 1991, Mr. Howe was placing campaign literature under the windshield wipers of the cars parked in the employee parking lot at the United facility. Mr. Howe is not an employee of United. While distributing literature Howe was approached by a security guard who told him that he could not place literature on the cars and that he would have to leave the parking lot. Mr. Howe removed his literature and left the area.

Subsequent to the filing of this protest, United has agreed to permit IBT members including IBT members not employed by it to engage in campaign activity on its property in the area adjacent to the guard shack near the employee entrance to its

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facility.<sup>1</sup> While this campaign activity may include the distribution of campaign literature, United will not permit the placement of campaign literature on cars parked in its employee parking lots. The Election Officer concludes that this access to employees entering the facility permits effective face to face campaigning and is consistent with the purposes of the Election Rules.

Article VIII, §10(d) of the *Rules* provides that the employer may place no restrictions on the pre-existing rights of IBT members to engage in campaign activity on the employer's premises. Pre-existing rights include those conferred by substantive law as well as those established by prior employer policies or practices at the facility. IBT members, including those not employed by the employer, may have a pre-existing right to access to the exterior areas of the employer's premises for campaign purposes--assuming that no effective means of face-to-face access is otherwise available. However, there is no pre-existing right, absent past practice, enabling IBT members to place campaign literature under the windshield wipers of parked cars a parking lot on the employer's premises, assuming other means of access to the IBT members employed by that employer is available. In this case, the Election Officer concludes that the prohibition on placing campaign literature under the windshield wipers of parked cars is not violative of the Election Rules given the other means of communication available to campaigners, i.e., to personally hand out literature to employees as they walk into the facility, and the lack of any evidence that United has permitted other literature, campaign or otherwise, to be placed under the windshield wipers of cars parked in its parking lot.

On the basis of the forgoing, the Election Officer considers this matter resolved. No appeal of this determination shall stay the effectiveness of this order. See, Election Rules, Article XI, § 2(z).

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,

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<sup>1</sup> IBT members wishing to campaign on United's property, as provided in this decision, shall give reasonable advance notice of their intent to Rick Innis, a managerial employee of this facility, who can be reached at 319-338-9281.

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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

cc: Frederick B. Lacey, Independent Administrator, IBT

Michael D. Gordon, Regional Coordinator

Ron Carey  
c/o Richard Gilberg, Esquire  
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Fax: 202-547-1990

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**c/o Robert Baptiste, Esquire**  
**Baptiste & Wilder**  
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**Fax: 202-223-9677**

**Shea-Ligurotis Action Team**  
**c/o James Smith**  
**c/o IBT Local Union 115**  
**2833 Cottman Avenue**  
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