



OFFICE OF THE ELECTION OFFICER
% INTERNATIONAL BROTHERHOOD OF TEAMSTERS
25 Louisiana Avenue, NW
Washington, DC 20001

Michael H. Holland
Election Officer

(202) 624-8778
1-800-828-6496
Fax (202) 624-8792

November 25, 1991

VIA UPS OVERNIGHT

David Robinson
34561 Spring Valley
Westland, Michigan 48185

Reno Misfud
Harry Brooks
c/o IBT Local Union 337
2801 Trumball Avenue
Detroit, Michigan 48216

Lawrence Brennan
President
IBT Local Union 337
2801 Trumball Avenue
Detroit, Michigan 48216

Re: Election Office Case No. P-1096-LU337-MGN

Gentlemen:

A protest was filed pursuant to Article XI of the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("Rules") by David Robinson, a member of Local Union 337. In his protest Mr. Robinson alleges that two Local Union officers violated the *Rules* by (1) campaigning in a non-work area at the Foodland Distribution Center and (2) their removal and destruction of Ron Carey literature posted in a breakroom at that facility. The Election Officer's investigation revealed the following.

David Robinson is an employee of Foodland Distribution Center at its facility in Livonia, Michigan. On November 15, 1991 two full-time employees of the Local Union, Business Agent Harry Brooks and Organizer Reno Misfud, were at the Foodland facility on Union business. Both Brooks and Misfud have responsibility for IBT members working at the Foodland facility and have regularly visited the facility in the past. On the day in question both Brooks and Misfud were at the facility on Union business; however while they were there they engaged in campaign activity in the drivers' breakroom in addition to their Union business.

The drivers' breakroom has been used in the past for the posting of campaign literature, including the posting of literature on the walls of the breakroom. On November 15, 1991 while Brooks and Misfud were in the breakroom they removed Ron Carey literature from the walls. While there is a dispute about the amount of Ron Carey

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literature removed from the breakroom and whether Brooks or Misfud was the individual who removed it, there is no dispute that some quantity of literature was removed by Brooks and/or Misfud. The removal of the literature ceased when Brooks and Misfud were confronted by another IBT member who was in the breakroom at the time; as a result a quantity of Carey literature remained posted.

Article VIII, §10(b) of the *Rules* provides that Union officers and employees who are IBT members retain the right to engage in campaign activity on behalf of candidates of their own choosing. That provision of the *Rules* also provides that while such officers and employees may not campaign on time paid for by the Union, campaigning that is incidental to regular Union business is not violative of the *Rules*. The Election Officer concludes based upon the evidence that both Brooks and Misfud were performing their regular and customary Union business when they visited the Foodland facility on November 15. The Election Officer further concludes that their campaigning while visiting the facility was incidental to their regular Union business activity. Therefore the Election Officer concludes that the campaigning at the Foodland facility on November 15, 1991 was not violative of the *Rules*.

However the removal or destruction of the Carey campaign literature by Brooks and Misfud either acting singly or in concert is a violation of the *Rules*. The posting of campaign literature is an important part of campaign activity and the intentional removal or destruction of campaign literature by a political opponent is inherently corrosive of the election process mandated by the March 14, 1989 Consent Order. The Election Officer and the Independent Administrator have not hesitated to take effective action to stop such activity.

For the foregoing reasons, the Election Officer concludes that the *Rules* have been violated and orders the following relief. Harry Brooks and Reno Misfud shall cease and desist from any further removal or destruction of properly posted campaign literature of any candidate or slate of candidates for International office in the IBT. Brooks and Misfud shall further cease and desist from any similar interference with the rights of any IBT member to freely campaign on behalf of candidates of their own choosing. No appeal from this determination shall stay the effectiveness of this order. See e.g. *Rules*, Article 11, §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.

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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,

A handwritten signature in black ink, appearing to read "M. Holland", written over the typed name "Michael H. Holland".

Michael H. Holland

MHH/ca

cc: Frederick B. Lacey, Independent Administrator

James De Haan, Regional Coordinator

Ron Carey
c/o Richard Gilberg, Esquire

R. V. Durham
c/o Hugh J. Beins, Esquire

Walter Shea
c/o Robert Baptiste, Esquire