



OFFICE OF THE ELECTION OFFICER
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Michael H. Holland
Election Officer

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January 15, 1991

VIA UPS OVERNIGHT

John B. Wilson
4304 Oldwyck Drive
Janesville, WI 53546

Brendan F. Kaiser
Secretary-Treasurer
IBT Local Union 579
2214 Center Avenue
Janesville, WI 53546

Thomas Zigler
3008 Mt. Zion Avenue
Janesville, WI 53546

Michael McGuire
30 Bablitz Road
Edgerton, WI 53534

Re: Election Office Case No. P-157-LU579-NCE

Gentlemen:

A pre-election protest has been filed pursuant to Article XI of the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("*Rules*"). The Complainant, John B. Wilson, alleges: (1) that Local Union Steward Tom Zigler used the Local Union copy machine to duplicate campaign literature; (2) that Mr Zigler posted the literature on a Bulletin Board; and (3) that Mr. Zigler also used the photocopy machine of Janesville Auto Transport, his employer, to duplicate campaign literature.

The investigation revealed that Mr. Zigler used the Union copy machine on December 17, 1990 to copy campaign literature. The investigation also revealed that the Union has a general policy of allowing all members to use the machine in exchange for a charge of \$.10 per page. Mr. Zigler paid the Union for the copies.

With respect to the Bulletin Board, the investigation revealed that the Board is a general purpose one. The Complainant confirmed that anyone can post campaign material on the Board.

With respect to the case of the Employer copy machine, the evidence is that Mr. Zigler made one copy of the material after his working hours for which he did not reimburse the Employer. The Employer and the Union submitted uncontradicted

evidence that the Employer has generally allowed employees to use its copy machine without requiring reimbursement.

The protest regarding the use of the general purpose Bulletin Board has no merit. The *Rules* provide that they do not restrict the pre-existing rights of members to use them for campaign publicity. *Rules*, Article VIII, § 10 (d). The evidence here shows that the Bulletin Board has been used for general purposes, such as the posting of campaign literature, in the past. The use of the board at this time for similar purposes does not violate the *Rules*.

With respect to the use of the Union copy machine, the *Rules* provide that such facilities may be used if the Local is reimbursed, if all candidates have equal access to the facilities, and if all candidates have advance notice of the availability of facilities. *Rules*, Article VIII, § 10 (c). There is no dispute that Mr. Zigler paid the Union to use the copy machine. The Union asserts that it has maintained a policy allowing members to use the Union copy machine in exchange for reimbursement. Based upon this claim, which was not disputed, and based upon the premise that this policy will continue, I conclude that it will not further the purposes of the *Rules* to find a violation based upon these facts

The *Rules* prohibit employer contributions of money, services or facilities in connection with campaigns. The use of the Employer's copy machine, with or without reimbursement, therefore, violates Article X of the *Rules*. The following remedy is appropriate:

1. Mr. Zigler is required to reimburse the Employer for the expense of using the copy machine;
2. All members and candidates are ordered to cease and desist from their use of the Employer's copying facilities for election purposes.¹
3. Mr. Zigler shall within seven days of his receipt of this decision file an affidavit with the Election Officer demonstrating his compliance with the reimbursement requirement set forth above.

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)

¹A copy of this decision is being transmitted simultaneously to the involved employer so that it is aware of the *Rules* with respect to employer campaign contributions.

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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/mca

cc. Frederick B. Lacey, Independent Administrator

Barbara Z. Quindel, Regional Coordinator

**Janesville Auto Transport Company
Attn: Gilbert R Ellis
544 Kellogg
Janesville, WI 53547**