



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

May 2, 1991

VIA UPS OVERNIGHT

Robert Naslanic
441 Clair
Garden City, Michigan 48135

Lawrence A Dyer
25043 Christopher Street
Mount Clemens, Michigan 48045

Barney Taylor
c/o Right To Vote Slate
9901 Hicks Road
Livonia, Michigan 48150

Joe W Clark
c/o Clark/Bochniak Team
16076 Liberal Road
Detroit, Michigan 48205

Allen Pope
11201 Fairfield Road
Livonia, Michigan 48150

Brenda Dotson Hansknecht
20138 Wacama Road
Detroit, Michigan 48203

David Staiger
245 Brookridge
Ann Arbor, Michigan 48103

United Parcel Service
29855 Schoolcraft
Livonia, Michigan 48150

James F Esser
President
IBT Local Union 243
2741 Trumbull Avenue
Detroit, Michigan 48216

Gary C. Clark
c/o Rank & File Teamsters
270 Kerry Lane
Highland, Michigan 48357

Frank Gionnik
31604 Tecla Drive
Warren, Michigan 48093

Jerry St Onge
29611 Ross Road
Redford, Michigan 48239

David Jenner
17810 Topefer
East Detroit, Michigan 48021

Jim Cianciola
3351 Richmond
Lincoln Park, Michigan 48146

Robert Naslanic
Page 2

Re: Election Office Case No. P-195-LU243-MGN

Gentlemen:

A pre-election protest was filed by Robert Naslanic on December 29, 1990 pursuant to Article XI, Section 1 of the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("*Rules*"), alleging that his name was misspelled on the ballot as "Haslanic" rather than "Naslanic", and that United Parcel Service ("UPS") interfered with and/or interrupted his distribution of literature at the Livonia and Taylor, Michigan worksites. This pre-election protest was deferred by Election Officer on January 22, 1991¹

Mr Naslanic alleges that UPS interfered with his campaigning in the employee parking lot at the UPS Taylor, Michigan facility. The Election Officer investigation found that Mr Naslanic was permitted by UPS to enter that parking lot and place literature on the windshields of all cars parked there. Mr Naslanic was permitted to remain in the parking lot thereafter for a period of approximately two hours during which time he drove around the parking lot. Mr Naslanic contends that he remained in the parking lot to ensure that no UPS supervisor removed the campaign literature from the vehicles parked in that lot. After approximately two hours, Mr. Naslanic was asked to leave the parking lot by UPS personnel due to his driving in a reckless manner. Mr Naslanic did so.

Mr. Naslanic is not an employee of the Taylor, Michigan UPS facility. Other than the removal by one supervisor of the literature placed by Mr. Naslanic on such supervisor's car, the Election Officer found no evidence that UPS collected or removed the campaign literature from vehicles parked in the parking lot. The Election Officer further does not find that the request by UPS of Mr Naslanic to leave the parking lot, after he had remained there, driving around the lot, for a two hour period was unreasonable. Therefore the Election Officer concludes that the *Rules* have not been violated.

With respect to the protest against UPS at the Livonia facility, Mr Naslanic contends that on December 28 and 29, 1991 he was attempting to engage in campaign activities in the employee parking lot at Livonia but was directed by UPS to cease such campaign activities and leave the parking lot. When he declined to do so, he invited UPS to call the police authorities, which the employer did.

¹In a related matter, the Election Officer granted a retabulation of votes in the delegate race in Election Office Case No. Post-21-LU243-MGN, but denied all other post-election relief. The Elections Officer's decision was affirmed by the Independent Administrator, 91-Elec App -127

Robert Naslanic
Page 3

The investigation of the Election Officer reveals that Mr Naslanic is employed by UPS at the Livonia facility, however on the days in question he was not working. It is the position of the Election Officer that employees have the right to engage in campaign activities during non-work times and in non-working areas of the employer.

UPS has notified the Election Officer that it agrees, consistent with the Election Officer's position, that Mr. Naslanic, as an employee of this UPS terminal, has a right to engage in campaign activities in the employee parking lot of the Livonia facility.

The Election Officer finds that a violation of the *Rules* has been established in regard to this matter. However, UPS has agreed with the Election Officer's position that Mr Naslanic and other IBT members employed at the Livonia, Michigan facility of UPS will have access to the parking lot for campaigning during the International Union Officer Election campaign in accordance with the requirements of the *Rules*. Thus, the Election Officer considers this portion of the protest RESOLVED. However, this protest is being considered as a post-election protest. The issue which must then be addressed is whether the conduct of UPS giving rise to the violation may have affected the outcome of the election. *Rules*, Article XI §1(b). That issue will be discussed below.

The final allegation for consideration in this deferred pre-election protest is the question of the effect of the misspelling of Mr Naslanic's name on the ballot. The portion of the ballot for Local 243 relating to the alternate position did misspell his name as "Haslanic". In the race for alternate delegate Robert Naslanic received six votes less than Betty Cardinal, who was the winning alternate with the lowest number of votes.

Mr Naslanic is well known within the Local. He ran for Recording Secretary in the Local Union officer election in the fall of 1990. He vigorously campaigned and was publicly visible both then and during the delegate and alternate election. Mr. Naslanic's name is distinctive and there is no member of Local 243 whose name is similar to Mr Naslanic's who is politically active in the Local. Accordingly, there is, in the Election Officer's view, little chance that Mr Naslanic was confused with anyone else. Moreover, the slate to which Mr. Naslanic belonged also distributed literature, including a mailing to all Local members which included Mr Naslanic's name, correctly spelled.

Article XI, § 1 (b)(2) of the *Rules* provides that "Post-election protests shall only be considered and remedied if the alleged violation may have affected the outcome of the election." For a violation to have affected the results of the election, there must be a meaningful relationship between the violation and the results of the election. See Wirtz v. Local Unions 410, 410A, 410B & 410C, International Union of Operating Engineers, 366 F 2d 438 (2nd Cir 1966), Dole v Mailhandlers, Local 317, 132 LRRM 2299 (D C M D Alabama 1989). In view of the factors aforementioned, including Mr. Naslanic's significant visibility within the Local and a high degree of improbability of confusion with that of anyone else within the Local, it cannot be reasonably be concluded that the results of the alternate election were affected by the transposition of an "H" for

Robert Naslanic
Page 4

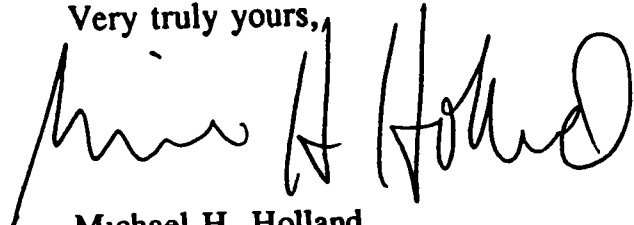
"N" on the ballot in an uncommon and distinctive name

Similarly, it is not reasonable to assume that the prohibition by the Livonia management of UPS preventing Mr Naslanic from campaigning in the employee parking lot on days he was not working affected the election results As noted above, Mr. Naslanic was well-known in the Local in connection with his candidacy in the recent Local election. He gained access to all members through a slate campaign mailing. Further, he worked at the Livonia facility and thus had access to members employed at the facility. Therefore, the Election Officer determines that any violation of the *Rules* by UPS at the Livonia facility did not affect the results of the election.

Accordingly, the deferred pre-election protest of Mr Naslanic is **RESOLVED** to the extent set forth above. In all other respects the protest is **DENIED**.

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/pjm

cc Frederick B Lacey, Independent Administrator
James De Haan, Regional Coordinator