



OFFICE OF THE ELECTION OFFICER
% INTERNATIONAL BROTHERHOOD OF TEAMSTERS
25 Louisiana Avenue, NW
Washington, DC 20001
(202) 624-8778
1-800-828-6496
Fax (202) 624-8792

Michael H Holland
Election Officer

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

January 18, 1991

VIA UPS OVERNIGHT

Daniel Kane
12026 Rose Hill Drive
Fontana, CA 92335

Al Lozano
14541 Hutchcroft St.
La Puente, CA 91744

Carl Lindemann
Secretary-Treasurer
IBT Local Union 396
3435 Wilshire Blvd.
Suite 2420
Los Angeles, CA 90010

Re: Election Office Case No. P-268-LU396-CLA

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 protest is functionally equivalent to an information request: the Complainants, Daniel Kane and Al Lozano, seek information regarding their rights to campaign on employer or Union premises. Specifically, they seek "written authorization" as to their rights with respect to campaigning.

In the absence of a specific dispute in a concrete fact situation, the Election Officer will not give "written authorization" to individuals to engage in specific conduct. Enclosed with this letter are two documents which the Complainants should refer to for guidance. One is the Election Officer's Advisory on Political Rights. The other is a Notice to IBT Members, which was prepared and signed by the Election Officer and which has been posted at UPS terminals nationwide. Since the Complainants have been discharged by their employers, the sections of these documents which set out the rights of non-employee IBT members may be of particular interest.

Very truly yours,



Michael H. Holland

MHH/mca

cc: Geraldine L. Leshin, Regional Coordinator
Dennis Hapley, Esq.

OFFICE OF THE ELECTION OFFICER
% INTERNATIONAL BROTHERHOOD OF TEAMSTERS
25 Louisiana Avenue, NW
Washington, DC 20001
(202) 624-8778
1-800-828-6496
Fax (202) 624-8792

Michael H. Holland
Election Officer

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

ADVISORY REGARDING POLITICAL RIGHTS

The *Rules for the IBT International Union Delegate and Officer Election* set forth various rules of conduct with respect to campaign and campaign activities. Article VII, § 10(d) of the *Rules* provides that no restrictions shall be placed on IBT members' pre-existing rights to utilize and have access to employer premises for campaign purposes and campaign activities.

Among the pre-existing rights referenced in that section of the *Rules* are those available by the operation of substantive federal law, such as the National Labor Relations Act and the Labor Management Reporting and Disclosure Act.

Thus, all IBT members have the right to campaign -- talk to fellow members, hand out literature, pass petitions, and the like -- in non-work areas of their employer's premises during non-work time. Neither the employer nor the Union can prevent such campaign activities. NLRB c. Magnavox, 415 U.S. 322 (1974); Eastex, Inc. v. NLRB, 437 U.S. 556 (1978); District Lodge 91, International Association of Machinists v. NLRB, 814 F.2d 876 (2nd Cir. 1987); NLRB v. Methodist Hospital of Gary, Inc. 732 F 2d 43 (7th Cir. 1984).

IBT members who are not in contact with customers of the employer or the public have the right, while working, to wear buttons to advertise their candidate(s). Republic Aviation Corporation v. NLRB, 324 U.S. 793 (1945). These members would also have the right to wear hats, shirts, and the like proclaiming their political campaign position. Mack's Supermarkets, Inc., 288 NLRB No. 123 (1988); Malta Construction Co., 276 NLRB No. 171 (1985), DeVillbiss Co., 102 NLRB No. 133 (1953).

Similarly, neither the Union nor the employer can change or limit bulletin board usage. Thus, where a bulletin board on the employer's premises has been used to post materials other than, or in addition to, official Union or employer notices, and even though such other postings have never included campaign postings, IBT members have a right to use the bulletin board for campaign postings, subject to the regulations

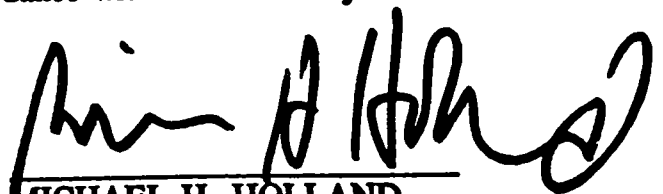
previously applied to "general purpose" postings, such as length of time the material may remain posted, the dimensions of the posting, and the like. Helton v. NLRB, 656 F.2d 883 (D.C. Cir. 1981); ABF Freight System v. NLRB 673 F.2d 229 (8th Cir. 1982).

IBT members who are employed by a different employer or at a different location of the same employer also have certain rights, although more limited, to engage in campaign activities at the employer's premises. Since the right to engage in campaign activities is protected by substantive federal law, as well as the *Rules*, the employer's rights of private property must accommodate the right to engage in campaign activities. Jean Country 291 NLRB No. 4 (1988).

The campaign rights of members, not employed by the employer include the right to have reasonable access to the "targets" of the of the activities, i.e., fellow IBT members. National Maritime Union v. NLRB, 867 F.2d 767 (2nd Cir. 1989). Thus, where the location of the employer's facility prevents face-to-face contact with the IBT members who work there, private property rights must yield to a limited right of access. In such situations, IBT members can campaign in non-work areas outside of the plant, terminal or other facility in locations generally open to the public such as the parking lot or outside the entrances or entrance gates to the facility. Lechmere v. NLRB 914 F.2d 313 (1st Cir. 1990).

Accommodation must be made, of course, to the rule of reason and the exigencies of the situation. For instance, if thefts or other criminal activity have required that locations, normally open, must be kept locked and secured from entry, the Election Officer will not require access to such lot. Safety issues also may limit access. Similarly, such campaigning cannot impede entry and egress to and from the employer's facility.

This Advisory is not intended and should not be construed as the totality of the campaign rights afforded under Article VII, § 10(d) of the *Rules*. Where the practices with respect to any particular employer, or any particular facility of an employer, have been more liberal and provided greater access than that discussed in this Advisory, the prior practice will prevail. However, this Advisory governs for all employers, regardless of past practice. Thus, even where there is no prior history of campaign activities at the employer's premises, IBT members are nonetheless entitled to engage in campaigning activities in accordance with this Advisory.


MICHAEL H. HOLLAND
Election Officer, IBT

Washington, D.C.
December 28, 1990

NOTICE TO TEAMSTER MEMBERS

FROM MICHAEL H. HOLLAND, ELECTION OFFICER, IBT

You have the right to participate in campaign activities on behalf of candidates for delegate and alternate delegate to the 1991 IBT International Convention.

You have the right to participate in campaign activities on behalf of candidates for International Office in the IBT.

You have the right to engage in such campaign activities, including the distribution of campaign materials, on the employer's premises in non-work areas during non-work time.

Your fellow members of the IBT, who work at other facilities or who are employed by other employers, have the right to engage in campaign activities on UPS premises which are in non-work areas outside of terminal facilities and are open to the public, e.g., in unenclosed, unrestricted parking lots or outside of the gates of UPS facilities on ground open to the public.


MICHAEL H. HOLLAND
Election Officer, IBT

This is an official notice and must remain posted for thirty consecutive days from the day of posting, and must not be altered, defaced, or covered by any other material.