

OFFICE OF THE ELECTION OFFICER
% INTERNATIONAL BROTHERHOOD OF TEAMSTERS
25 Louisiana Avenue, NW
Washington, DC 20001
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Michael H Holland
Election Officer

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

February 5, 1991

VIA UPS OVERNIGHT

Richard Kraft
4432 176th S W , Apt 4
Lynnwood, WA 98037

Allen McNaughton
Secretary-Treasurer
IBT Local Union 174
553 John Street
Seattle, WA 98109

Re: Election Office Case No. P-411-LU174-PNW

Gentlemen:

On January 28, 1991, Richard Kraft filed a pre-election protest under Article VIII, Section 10 of the Rules for the IBT International Union Delegate and Officer Election. At issue is whether Mr. Kraft was discharged on January 24, 1991 by Yellow Freight Systems ("YFS"), at least in part, because of his candidacy as a delegate and his campaign activities on behalf of accredited IBT International Presidential candidate Ron Carey and the Teamsters for a Democratic Union platform.

This is the Election Office case involving Mr. Kraft. P-35-LU174-PNW involved his protest of his October, 1990 discharge as well as a two day suspension.

During the pendency of the protest, the Local Union grieved Mr. Kraft's discharge and suspension. In the grievance procedure, the two day suspension was reduced to a one day suspension and the termination to a three week suspension. The discipline did not affect Mr. Kraft's eligibility to be a candidate. He now is a candidate for delegate from Local Union 174 to the 1991 IBT International Convention.

In P-35-LU174-PNW, I dismissed Mr. Kraft's protest and was upheld by the Independent Administrator. See 90-Elec. App. - 15 (SA) Paragraphs 14-17 of the Findings of Fact contained in the Election Officer Summary to the Independent

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Administrator in that case read as follows

14) On September 27, 1990 Kraft was issued a warning letter for taking the wrong trailer to a customer. On October 3, 1990, Kraft was issued a warning letter for failing to properly complete paperwork. In that warning letter the employer made reference to similar failures that occurred on February 9, July 26, August 1, August 7, and August 30, 1990. Kraft was warned that "any further incidents of this nature will result in disciplinary action up to and including discharge."

15) By letter dated October 24, 1990, Kraft was suspended for two days because of a failure to complete paperwork and unloading and loading duties.

16) By letter dated October 25, 1990, Kraft was terminated because he improperly picked up two shipments of freight.

17) Kraft apparently does not dispute that basis of the discipline but rather argues that the penalties are excessive and/or discriminatory.

According to Mr Kraft, on January 24, 1991, he was terminated by his supervisor, Frank Zitnik, for misloading freight and directing it on the wrong route. Zitnik showed him the erroneous entry on the freight bill. Kraft does not dispute the mistake but contends, as before that the penalty is excessive and/or discriminatory. Kraft grieved the discharge on January 30, 1991.

However, Kraft has no evidence suggesting that Zitnik's action was related to Kraft's campaign activities. Nor does he have any evidence that the Local Union participated in the discharge.

Mr Kraft alleges that his campaign activity was the motivating factor for YFS allegedly imposing more severe discipline against him. Even assuming that his campaign activities may have been a motivating factor, the facts presented here are insufficient to demonstrate that the level of discipline was enhanced due to Mr. Kraft's campaign activity. Thus, I find, as I did in Mr. Kraft's prior case, that the discipline imposed does not violate the *Rules*. See Decision of the Independent Administrator, In Re: Coleman and Advance Transport Co., 90-Elec App.-18(SA) Again, I note that I am not deciding the merits of Mr Kraft's grievance; I am not deciding whether just cause existed for the discipline or, if cause existed, the level of discipline was appropriate.

Based on the foregoing factual findings, I find no evidence that the discharge of Kraft or any Union conduct in connection therewith was in violation of the Election Rules. 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,

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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/acm

cc. Frederick B. Lacey, Independent Administrator
Christine Mrak, Regional Coordinator

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% INTERNATIONAL BROTHERHOOD OF TEAMSTERS
25 Louisiana Avenue, NW
Washington, DC 20001

Michael H. Holland
Election Officer

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March 18, 1991

VIA UPS OVERNIGHT

Richard Kraft
4432 176th S W , Apt 4
Lynnwood, WA 98037

Allen McNaughton
Secretary-Treasurer
IBT Local Union 174
553 John Street
Seattle, WA 98109

Re: Election Office Case No. P-411-LU174-PNW

Gentlemen:

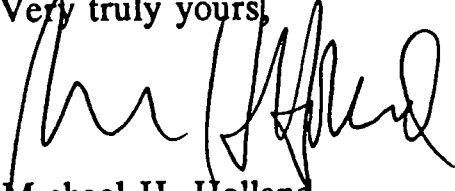
On February 5, 1991, the Election Officer issued his determination in the above-referenced pre-election protest filed by Richard Kraft. In his protest, Mr Kraft alleges that he was terminated from his employment with Yellow Freight Systems because of his campaign activity in violation of the *Rules for the International Union Delegate and Officer Election*, revised August 1, 1990 ("*Rules*") The Election Officer denied the protest because he concluded that "[e]ven assuming that his campaign activity may have been a motivating factor, the facts presented here are insufficient to demonstrate that the level of discipline was enhanced due to Mr Kraft's campaign activity "

After his receipt of the determination, Mr Kraft contacted the Election Officer challenging one of the factual findings contained in the determination Mr Kraft contests the grounds for his discipline, and further denies responsibility for the error on the freight bill, which served as the basis of his discharge A review of the determination in question, as well as the notes of the Election Office staff person who interviewed Kraft, reveals that Kraft only conceded that a mistake was made on the freight bill He did not admit to the Election Officer that he was responsible for the error. In fact, Kraft specifically denies responsibility for the error However, the fact that Kraft denies responsibility for the error does not affect the Election Officer's determination

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The Election Officer is aware that Mr. Kraft is challenging his discharge, through the contractual grievance procedure, arguing that he was not responsible for the error on the freight bill. It is the position of the Election Officer that nothing in his February 5, 1991 determination is dispositive of that claim.

Very truly yours,



Michael H Holland

MHH/kpm

cc Frederick B Lacey, Independent Administrator
Christine Mrak, Regional Coordinator

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% INTERNATIONAL BROTHERHOOD OF TEAMSTERS
25 Louisiana Avenue, NW
Washington, DC 20001

Michael H. Holland
Election Officer

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September 25, 1991

VIA UPS OVERNIGHT

Richard Kraft
4432 176th S W , Apt 4
Lynnwood, WA 98037

Allen McNaughton
Secretary-Treasurer
IBT Local Union 174
553 John Street
Seattle, WA 98109

Re: Election Office Case No. P-411-LU174-PNW and Related Cases

Gentlemen

Protests were filed on and on behalf of Richard Kraft pursuant to the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("*Rules*") The protests contend that Mr Kraft's discharge and the subsequent representation by him in the grievance proceedings brought with respect to that discharge by the Union were undertaken in retaliation for Mr Kraft's campaign activities and thus were violative of the *Rules* The Election Officer deferred resolution of these protests pending the result of the grievance procedure

Mr Kraft has now advised the Election Officer that the discharge proceeding has been resolved to his satisfaction and seeks to withdraw all protests previously filed with respect to such discharge and the subsequent processing of the discharge grievance by the Union The Election Officer, finding that withdrawal will effectuate the purpose of the *Rules*, permits such WITHDRAWAL

Very truly yours,



Michael H. Holland

MHH/mjv

cc Frederick B Lacey, Independent Administrator
Christine Mrak, Regional Coordinator