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March 4, 1991

**VIA UPS OVERNIGHT**

John McCormick  
6574 O'Hare  
Portage, OH 46368

Frank Snow  
300 S Ashland Ave  
Chicago, IL 60607

Daniel C Liguoris  
Secretary-Treasurer  
IBT Local Union 705  
300 S Ashland Ave  
Chicago, IL 60607

**Re: Election Office Case No. P-480-LU705-CHI**

Gentlemen

Mr McCormick filed a pre-election protest in accordance with Article XI of the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("*Rules*") In his protest, Mr McCormick alleges that Local 705 Business Agent, Frank Snow was distributing anti-Carey campaign literature on Union-paid time in violation of Article X of the *Rules*

The investigation conducted by the Election Officer disclosed the following facts

On February 11, 1991, Frank Snow, Business Agent for Local 705, drove to the UPS facility in Bedford Park, Illinois in a vehicle which was owned by Local 705. Mr Snow arrived at the facility at approximately 6 50 a m Mr McCormick observed Mr Snow remove a stack of campaign literature from his vehicle Mr McCormick did not observe what Mr McCormick did with the literature Later that morning, Mr McCormick observed Mr Snow working in an office which has been designated by the company as an office for processing grievances Mr McCormick states that Mr Snow might have been hearing grievances because McCormick observed other members standing near or inside the office Mr McCormick did not see Mr Snow distributing any campaign literature to members at the UPS facility.

Mr Snow admits bringing the literature to the UPS facility in his car on the morning of February 14, 1991 Mr Snow states that he went to the facility that day to meet with Jeff Levit, the UPS supervisor of the "inside" (i e , non-driver) employees

regarding five grievances for part-time employees Mr Snow also states that after he arrived at the terminal, he gave the campaign flyers to the Union steward who placed the literature in the locker room

Article VIII of the *Rules* provides that

All Union officers and employees, if members, retain the right to participate in campaign activities, including the right to run for office, to openly support or oppose any candidate, and to make personal campaign contributions. However, such campaigning must not involve the expenditure of Union funds. Accordingly, members, officers and employees of the Union may not campaign on time that is paid for by the Union. Campaigning incidental to regular Union business is not, however, violative of this section.

The evidence establishes that Mr Snow went to the UPS facility to perform duties which were consistent with his responsibilities as a Business Agent, i e , the processing and resolution of employee grievances. The evidence indicates that Mr Snow gave the flyers to the Union steward and did not spend any time campaigning with members at the UPS facility that morning.

Article X, § 1 (a)(1) and (3) also prohibit Union contributions to any campaign. The prohibition extends to use of Union equipment and facilities unless all the Union is compensated for such use and all candidates are provided equal access.

In this case, Mr Snow used his Union provided car to transport the campaign literature to the UPS facility. Mr Snow is provided with an automobile by Local 705. He however has the right to use the vehicle for personal purposes as well as Union business. Further, there is no allegation, and the Election Officer's investigation uncovered no evidence, that transporting the amount of literature her at issue was inconsistent with normal Union business usage of the car or that Mr Snow deviated from his normal Union business to procure the literature.

Based on the foregoing, the Election Officer determines that Mr Snow went to the UPS facility primarily to conduct legitimate Union business and that the bringing of the literature to the plant in the Union vehicle and giving the literature to the Union steward was incidental to his legitimate objective of meeting with the UPS supervisor.

John McCormick  
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and 705 members in an effort to resolve members' grievances <sup>1</sup> His usage of the car to transport the literature was incidental to its normal usage for Union business

Accordingly, under these facts, the mere transportation and handling of the literature did not violate the *Rules* Accordingly, 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/mca

cc Frederick B Lacey, Independent Administrator  
Julie E Hamos, Regional Coordinator

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<sup>1</sup>If, however, the facts had demonstrated Mr Snow had spent additional time actually posting or distributing the literature to members, or if evidence had not been submitted to substantiate the fact that Mr Snow was primarily engaged in the conduct of legitimate Union business, such activity would no longer be considered incidental