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Michael H Holland  
Election Officer

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February 22, 1991

**VIA UPS OVERNIGHT**

Thomas G Sweat  
9915 Timberlake Dr  
Jacksonville, FL 32257

Signal Delivery Service Inc  
10503 Busch Dr  
Jacksonville, FL 32218

Frank E Pendelton  
Secretary-Treasurer  
IBT Local Union 512  
1210 Lane Ave , North  
Jacksonville, FL 32205

**Re: Election Office Case No. P-485-LU512-SEC**

Gentlemen

A pre-election protest was filed pursuant to Article XI, § 1 of the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("*Rules*") In his protest, Mr Sweat alleges that Mr Ron Oglesbee, terminal manager for Signal Delivery Services Inc , has violated the *Rules* by prohibiting posting of campaign literature on the Local Union bulletin board at the Signal Delivery Services Inc terminal at 10503 Busch Drive, in Jacksonville, Florida

The investigation conducted by the Election Officer disclosed the following facts

Mr Sweat is a member of Local 512 and is employed at Signal Delivery Services in Jacksonville The Jacksonville terminal contains glass enclosed locked bulletin boards which have been designated as Local Union bulletin boards One of the bulletin boards is located in the drivers room, and the other is located in the shop area The only individuals with keys to this bulletin board are the Local Union stewards

Mr Sweat asserts that during the fall of 1990 Officer's election, Local Union officer campaign material was posted on the Local Union bulletin boards Mr Sweat does not recall how long the literature remained posted but states that to the best of his knowledge the company raised no objections to the postings The Election Officer representative interviewed three other IBT members employed at Signal While all said they had seen campaign material posted in the bulletin board during the 1990 Local Union officer election, they all admitted that management had removed the material shortly after its posting.

Pursuant to his investigation, Don Williams, the Election Officer Regional Coordinator, interviewed Ron Oglesbee, the terminal manager from Signal Delivery Service Inc. Mr Oglesbee denied instructing Mr. Sweat to remove any official Union document, including the notice of nomination results. However, Mr Sweat did state that company policy and the collective bargaining agreement negotiated between Local 512 and Signal Delivery Services prohibited the posting of any material other than official Union notices on the bulletin board.

Article 19, § 2 of Signal Delivery's labor contract with Local 512 provides that only official Local Union notices may be posted on the bulletin board and forbids the posting of advertising or political notices:

"[T]he company shall provide a glass enclosed bulletin board for the exclusive use of the Union, and the Union shall have the right, through officially designated representatives, to post official material on this board that is in keeping with the spirit and intent of this agreement. There shall be no other general distribution or posting by employees, or pamphlets, advertising or political matters, notices, or any kind of literature upon company property other than on a herein provided bulletin board

Mr. Oglesbee recalls that a flyer supporting Tom Sweat for President was posted on the shop bulletin board for a few days during the fall campaign but was removed as soon as it was discovered by a company official. Mr. Oglesbee asserts that with the exception of the above referenced flyer, he was not aware of that any other campaign literature had ever been posted on the bulletin board

Article VIII, § 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. In accordance with the requirement that no restrictions be placed on pre-existing rights, neither the Union nor the employer may change or limit bulletin board usage where the bulletin board usage where the bulletin board on the employer's premises has been used to post materials other than, or in addition to, official Union or employer notices. See Advisory Regarding Political Rights, (Office of the Election Officer, Michael Holland, December 28, 1990)

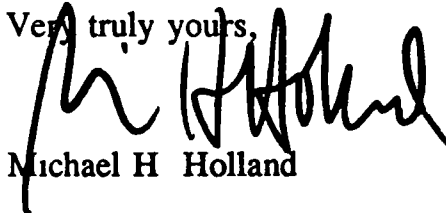
However, if the bulletin board has not been designated as a general purpose bulletin board, and if the employer or the Union have never permitted posting of materials other than official Union or employer notices, then the *Rules* do not provide that members have a right to post campaign materials on boards which have not been designated or utilized as general use boards. The mere fact that campaign literature

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sporadically appeared on the bulletin board and was subsequently removed when discovered by company officials does not convert either one of the Signal Delivery Service Inc Union bulletin boards into general purpose bulletin boards I find that the company and the Union have consistently adhered to the requirements of Article 19 of the contract and have generally restricted the posting of materials other than official Union or employer notices. Accordingly, Mr Sweat's protest is DENIED<sup>1</sup>

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  
Donald H Williams, Regional Coordinator

Bill Allport, Esq  
3700 Park East Dr  
Cleveland, OH 44122

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<sup>1</sup> The company and the Union have advised the Election Office that the nomination notices have been posted on both Union bulletin boards at the Signal Terminal and will remain posted throughout the entirety of the delegate and alternate delegate elections in accordance with Article II of the *Rules*