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Election Officer

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March 12, 1991

VIA UPS OVERNIGHT

Al Walker
11436 Geneva Road
Cincinnati, Ohio 45240

Bill Wright
6909 Kyles Station Road
Middletown, Ohio 45044

United Parcel Service
500 Gest Street
Cincinnati, Ohio 45203

Michael H Dickens
President
Teamsters Local 100
2100 Oak Road
Cincinnati, Ohio 45241

Jim Hassett
Center Manager
Kentucky View Center
Florence, Kentucky 41042

Re: Election Office Case No. P-635-LU100-SCE

Gentlemen

A pre-election protest was filed pursuant to Article XI of the *Rules for the IBT International Union Delegate and Officer Election*, revised July 10, 1990 ("*Rules*") by Messrs Al Walker and Bill Wright. The complainants allege that they were denied access to campaign inside the United Parcel Service ("UPS") hub facility in Florence, Kentucky in violation of Article VIII of the *Rules*.

The investigation conducted by the Election Office reveals the following facts: Bill Wright and Al Walker are both members of IBT Local 100 in Cincinnati, Ohio and are running for delegates on the "Unified Members Slate" in Local 100's upcoming delegate election. On March 6, 1991, Messrs Bill Wright and Al Walker went to the UPS hub in Florence, Kentucky to campaign among Local 100 members working at the facility. Both Mr Wright and Mr Walker are employed by UPS at the Sharonville, Ohio facility, and do not work out of the UPS hub in Florence, Kentucky.

On March 6, 1991 Mr Wright and Mr Walker entered the UPS facilities in Florence, Kentucky and spoke with a UPS supervisor, Jay McKeener, who directed them to an area where the coffee machines and a few benches are located. As Mr Walker and Mr Wright began speaking to members about their campaign, they were approached by the UPS hub manager Jim Hassett, who informed them that they were not permitted

to campaign inside the building Mr Hassett did not tell either of the complainants that they prohibited from campaigning anywhere on the premises There is no evidence to indicate that any other IBT member candidates not employed at the Florence UPS facility were permitted to campaign inside the building

The above described facts do not constitute a violation of the *Rules* On December 28, 1990, the Election Officer issued an Advisory Regarding Political Rights, which describes, among other things, the rights of IBT members to campaign at non-employer sites The Advisory states that

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 4 (1988)

The campaign rights of members, not employed by the employer, include the right to have reasonable access to the "target" of the activities, i.e., fellow IBT members National Maritime Union v. N.L.R.B., 867 F 2d 767 (2d Cir 1989) Thus, where the location of the Employer's facilities 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 a parking lot or outside the entrances or entrance gates to the facility Lechmere v N.L.R.B., 914 F 2d 313 (1st Cir 1990)(emphasis added)

Thus, under the *Rules*, IBT members employed at a different location of the same employer have no automatic right of access to campaign in non-work areas inside employer facilities at work-sites where they are not employed Since there is no allegation, nor does the evidence reveal that any other UPS employees not employed at the Florence hub had been granted access to campaign in the breakroom area inside the UPS facility at the Florence, Kentucky facility, the complainants' campaigning rights were not violated by UPS on March 6, 1991 Accordingly, the above-described 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

Al Walker
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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/ads

cc Frederick B. Lacey, Independent Administrator
Peggy A. Hillman, Regional Coordinator
Martin Wald, Esquire
Schnader, Harrison, Segal & Lewis
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