



OFFICE OF THE ELECTION OFFICER
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March 15, 1991

VIA UPS OVERNIGHT

Walter Pettit
3967 Abella Street
La Crescenta, California 91214

Carlos Barnett
1310 South Vecino Avenue
Glendora, California 91470

Jerome L Vercruse
Secretary-Treasurer
IBT Local Union 630
750 South Stanford Avenue
Los Angeles, California 90021

Re: Election Office Case No P-654-LU630-CLA

Gentlemen

A pre-election protest was filed pursuant Article XI, Section 1 of the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("*Rules*") by Walter Pettit, a member of Local Union 630. Mr. Pettit complains that Carlos Barnett, a candidate for delegate from Local Union 630, has violated Article X of the *Rules*, by displaying the Teamster logo on his campaign literature. Mr. Pettit further contends that Mr. Barnett was observed passing out the same literature at a general membership meeting of Local Union 630, also in violation of Article X of the *Rules*.

An investigation of the above protest has been conducted by the Election Officer. The campaign literature of Mr. Barnett does contain the logo of the Teamsters. As has been held previously by the Election Officer, and by the Independent Administrator, the use of the IBT logo on campaign literature is not prohibited by Article X, Section 1(b)(3) of the *Rules*, so long as its use is not deceptive or misleading. (See, Election Officer Case No. P-226-LU182-PGH, Terrence Majka and Al Szablak, Decision of the Independent Administrator, No. 91 - Elec App - 40, and Election Office Case No. P-542-LU420-CLA, J. Conaway and Barry Clark, et al., Decision of the Independent Administrator, No. 91 - Elec App - 87). The literature of Mr. Barnett which contains the logo is clearly campaign literature, and therefore the use of the logo is neither deceptive nor misleading. Accordingly, the use of the logo does not violate Article X of the *Rules*.

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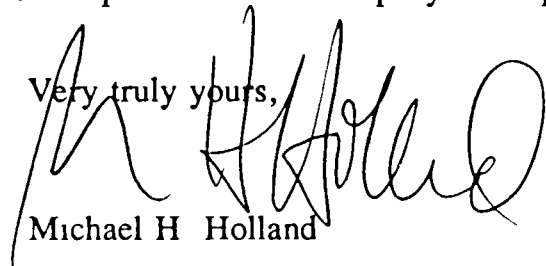
Kurt Larson, a Business Agent of Local 630, and the witness to the alleged violation, advised the Election Officer that he saw Carlos Barnett handing out literature to two members at the Union meeting. According to Mr. Larson, Mr. Barnett gave one member who was sitting approximately three to four rows from him a stack of campaign literature just following the commencement of the meeting, after the meeting was over, Mr. Barnett walked over to another member and gave him a stack of literature.

Article VIII, Section 10(d) provides that no restrictions shall be placed on a candidates or members pre-existing rights to solicit support, distribute leaflets or literature, conduct campaign rallies, hold fund-raising events, or engage in similar activities on employer or Union premises. Given the type of distribution of literature engaged in by Mr. Barnett, the Election Officer does not find it necessary to determine whether any pre-existing rights existed as to the distribution of literature at the Union meeting. The two packages delivered by Mr. Barnett at the meeting do not rise to the level of distribution of literature as set forth in the *Rules*, the distribution was incidental to Mr. Barnett's attendance at the Union meeting.

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/ads

cc Frederick B. Lacey, Independent Administrator
Geraldine L. Leshin, Regional Coordinator