

OFFICE OF THE ELECTION OFFICER
% INTERNATIONAL BROTHERHOOD OF TEAMSTERS
25 Louisiana Avenue, NW
Washington, DC 20001

Michael H. Holland
Election Officer

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October 8, 1991

VIA UPS OVERNIGHT

David R. Long
Rt. 4 Box 66B
Ozark, MO 65721

Bernard Morris
Secretary-Treasurer
IBT Local Union 245
1850 E. Division
Springfield, MO 65803

Associated Wholesale Grocery
3201 E. Division
Springfield, MO 65802

William L. Underhill
Route 1, Box 286
Brighton, MO 65617

Re: Election Office Case No. P-918-LU245-MOI

Gentlemen:

A protest was filed pursuant to the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("*Rules*") by David R. Long, a member of Local Union 245 employed by Associated Wholesale Grocers (AWG). Mr. Long alleges that his rights under the *Rules* were violated by a AWG when his supervisor required him to remove a Carey sticker from his personal pillow located in his truck. Mr. Long also alleges that he has been prevented from posting campaign literature on general purpose bulletin boards on AWG premises.

The investigation of this protest revealed that on September 20, 1991, Mr. Long was approached by Ken Roberts, a supervisory employee of AWG, who instructed Long to remove the Carey sticker from his pillow – as he had been previously been instructed to remove other campaign materials affixed to his company vehicle. The pillow is the personal property of Mr. Long. However, Mr. Long does not use the pillow "normally." Rather, Mr. Long hangs the pillow from a clothes hook in his cab in order to have the campaign sticker affixed to the pillow visible from the outside of the vehicle. After a brief exchange, Mr. Long did remove the sticker from the pillow.

Mr. Long had filed a prior protest concerning the initial instruction of his employer to remove campaign stickers from his vehicle. (Election Office Case No. P-880-LU245-MOI). By letter dated September 19, 1991, the Election Officer denied that

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protest, finding that there was no past practice at this AWG facility of permitting decals and stickers to be placed on company equipment. Article VIII, § 10 of the *Rules* provides that no restrictions shall be placed on members' pre-existing rights to use an employer's facilities for campaign purposes.

No substantive law requires that employers permit campaign stickers to be displayed on or from their vehicles. Since no past practice existed, the *Rules* had not been violated and the protest was denied.

The same result is required here. While the pillow is the personal property of Mr. Long and not company equipment, Mr. Long is using the pillow solely to accomplish that which the Election Officer found he had no right to do in Election Office Case No. P-880-LU245-MOI. Instead of affixing a decal or sticker to the window of his vehicle, Mr. Long affixes the sticker to the pillow and then places the pillow so that the sticker may be seen through the window of his vehicle. No substantive law requires an employer to permit its equipment to be used to display stickers or decals. No past practice of allowing such decals and stickers to be so displayed has been established. Article VIII, §10 of the *Rules* protects only members pre-existing rights, that is rights established by substantive law or past practice. Accordingly, it follows that the display of stickers and decals from company equipment, even if not affixed to company equipment, is also not protected by the *Rules*. This portion of Mr. Long's protest is therefore DENIED.

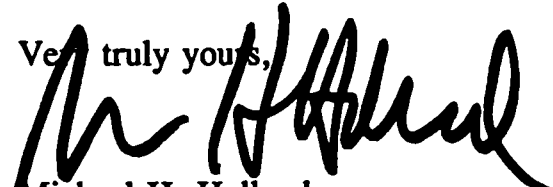
With respect to Mr. Long's protest concerning the use of the general purpose bulletin board at AWG for the posting of campaign materials, the Election Officer, in Election Office Case No. P-905-LU245-MOI, obtained the agreement of AWG that the bulletin board in the lunch room was a general purpose bulletin board, on which IBT members employed at AWG's Springfield facility -- during the course of the International officer election process -- could post campaign material related to the 1991 IBT International Union officer election. The Local has been required to post a notice notifying IBT members employed at AWG of this right. Thus, the determination in Election Office Case No. P-905-LU245-MOI resolves that portion of Mr. Long's protest dealing with the right to post campaign materials on the bulletin board.

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,

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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/mjv

cc: Frederick B. Lacey, Independent Administrator
Michael D. Gordon, Regional Coordinator