



OFFICE OF THE ELECTION OFFICER
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Michael H. Holland
Election Officer

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Chicago, IL 60604
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November 8, 1991

VIA UPS OVERNIGHT

Steven J. Rakes
P. O. Box 40441
Raleigh, NC 27629

Russ Hogan
Claude Gray
c/o IBT Local Union 391
3100 Sandy Ridge Road
Colfax, NC 27235

United Parcel Service
1627 Navajo Drive
Raleigh, NC 27609

R. V. Durham
President
IBT Local Union 391
3100 Sandy Ridge Road
Colfax, NC 27235

Re: Election Office Case No. P-1037-LU391-MID

Gentlemen:

A protest was filed pursuant to the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("Rules") by Steven J. Rakes, a member of Local Union 391 and a supporter of General President candidate Ron Carey and the other members of his slate. Mr. Rakes claims that Claude Gray and Russ Hogan, a business agent and former business agent of Local 391, respectively, were permitted to engage in campaign activities on behalf of the R. V. Durham Unity Team in the interior of the United Parcel Service ("UPS") facility in Raleigh, North Carolina. The protest was investigated by Adjunct Regional Coordinator Griff Morgan.

Neither Messrs. Gray or Hogan are employees of UPS. Mr. Gray is a business agent of Local 391, employed by the Local. Mr. Hogan, prior to his retirement in the summer of 1991, was also a business agent employed by Local 391 with responsibilities for the Local's members employed at the UPS facility in Raleigh, North Carolina.

On October 31, 1991, in the evening, at or about 6:00 p.m., Messrs. Gray and Hogan were in the Raleigh, North Carolina UPS parking lot handing out campaign literature supportive of the R. V. Durham Unity Team. They engaged in such campaign activities in the parking lot outside the employee entrance to the facility. UPS has agreed to permit IBT members, whether or not employed by it, to campaign in open

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unrestricted parking lots in its facilities. There is no allegation or proof that UPS has discriminated with respect to such access at its North Carolina facility.¹

At or after 8:15 p.m., after the vast majority of the part-time employees working the evening shift had left the facility, Messrs. Gray and Hogan left the parking lot and entered the facility through the employee entrance. They claim that they left all their campaign literature with the security guard prior to entering the facility. UPS confirms their contention. Mr. Rakes has no evidence to the contrary; Mr. Rakes claims they had the literature at the time they entered the security area but admits he was unable to see whether they retained such literature when they entered the facility proper. The Election Officer investigation has uncovered no evidence that either Mr. Hogan or Mr. Gray engaged in any campaign activities while they were in the interior of the facility. Accordingly, this 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/ca

cc: Frederick B. Lacey, Independent Administrator
Grant G. Crandall, Regional Coordinator

¹ There is also no allegation or proof here that Mr. Gray was campaigning on work time for which he was compensated by Local 391. The Election Officer would note that the time Mr. Gray was campaigning was outside his normal work day.

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