



OFFICE OF THE ELECTION OFFICER
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Election Officer

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February 25, 1991

VIA UPS OVERNIGHT

Dudley M Stewart
407 Ninth Street
Bakersfield, California 93304

Carnation Company
7301 District Boulevard
Bakersfield, California 93308

Larry R Long
Secretary-Treasurer
IBT Local Union 87
3724 Pierce Road
Bakersfield, California 93308

Muriel Menghini
Golden Bear Witco Company
Norris Road & Manor Drive
Bakersfield, California 93308

Re: Election Office Case No. P-510-LU87-CCV

Gentlemen

The above-referenced pre-election protest was filed pursuant to Article XI, Section 1 of the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("*Rules*") In his protest, Mr Dudley Stewart, a member of Local 87 alleges that he has been denied campaign access to the Carnation Company plant and to the Golden Bear Witco Company refinery, both located in Bakersfield, California Mr Stewart is not employed by either company

The Election Officer has discussed the issue of access with representatives of both corporations

The Carnation facilities, including the employee's parking lot, are located at the end of an approximately two hundred foot private road The private road provides access to the facilities from a highway, there is a sidewalk located adjacent to such highway At the end of the private road, there is a speed bump and a security guard station through which Carnation employees must pass to enter the employee parking lot The entrance through the security guard station is designed so that only one car may pass through at a time

Given the necessity of cars passing the security guard station in a single file, and the number of employees who work for Carnation on the day shift, campaigning in the private roadway prior to the start of the day shift creates extreme congestion. However, campaigning at the time IBT members employed by Carnation leave work does not lead to congestion of the same magnitude. Further, all such members must stop at the end of the private road prior to exiting on to the highway. Carnation representatives indicate that they have no objection to IBT members not employed by Carnation campaigning among members leaving work at or about the area where Carnation's private road terminates and exits to the highway.

Mr Stewart was informed by the Regional Coordinator of Carnation's position on or about February 18, 1991. On February 19, 1991, Mr Stewart did campaign at the time and in the area where Carnation had indicated was appropriate. Mr Stewart advised the Election Officer that he was able to contact IBT members employed by Carnation by engaging in campaign activities at or about the point where Carnation's private roadway exited on to the public highway.

In light of the foregoing, and particularly given Mr Stewart's statement that his campaigning activities were fruitful, the Election Officer concludes that Mr Stewart's protest with respect to Carnation has been resolved. IBT members not employed by Carnation can campaign among Carnation employees as they leave the Carnation facilities at or about the point where the Carnation private road terminates and exits on to the public highway.

Golden Bear Witco is an oil refinery. Its fenced facilities are immediately adjacent to a public roadway. There is no public sidewalk between the public road and the gate and guard station providing access to the facility. Thus, IBT members not employed by Golden Bear Witco do not have access to members so employed by campaigning on public property.

Because of the Persian Gulf crisis, there is heightened security at the facility. The Company takes a position that it cannot permit any access to its facilities other than by its employees. There are, however, only thirteen IBT members, all truckdrivers, employed by the Company. Further the Company has agreed that IBT members not employed by it can bring campaign literature to the security guard stationed at the entrance to the facility. All such literature will be delivered to the garage, where IBT members employed by Golden Bear Witco congregate, so that such literature can be seen and distributed among such IBT members. Given the security problems raised by the Persian Gulf crisis, and the fact that there are only thirteen IBT members employed by Golden Bear Witco, the Election Officer has determined that the foregoing method to provide access is satisfactory.

In accordance with the foregoing, the protest is **RESOLVED**

Dudley M Stewart
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If any person is not satisfied with this determination, he may request a hearing before the Administrator within twenty-four (24) hours of his receipt of this letter. Such request shall be made in writing and shall be served on Administrator Frederick B Lacey at LeBoeuf, Lamb, Leiby & MacRae, One Gateway Center, Newark, N J 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. 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.

Very truly yours,

Michael H Holland

MHH/mca

cc Frederick B Lacey, Independent Administrator
Donald E Twohey, Regional Coordinator