

November 25, 1996

VIA UPS OVERNIGHT

Tim Russ  
341 N.W. 81st  
Seattle, WA 98117

Martin Wald  
Schnader, Harrison, Segal & Lewis  
1600 Market Street, Suite 3600  
Philadelphia, PA 19103

Re: Election Office Case No. P-1242-LU174-PNW

Gentlemen:

Tim Russ, a member of Local Union 174, filed a pre-election protest pursuant to Article XIV, Section 2(b) of the *Rules for the 1995-1996 IBT International Union Delegate and Officer Election ("Rules")* alleging that UPS violated the *Rules* on November 12, 1996 when it removed and destroyed a campaign sign that Mr. Russ had placed on a tree located in the employee parking lot where Mr. Russ was campaigning.

UPS admits that it removed and disposed of Mr. Russ' campaign sign and states that it did so because Mr. Russ had no right to place a campaign sign on the tree, and further because the sign was placed on the tree in a manner that was harmful to the tree.

This protest was investigated by Regional Coordinator Christine M. Mrak.

The following facts are undisputed. On November 12, prior to beginning his work day, Mr. Russ campaigned in the employee parking lot of the Redmond, Washington UPS facility. As a part of his campaign activities, Mr. Russ placed a campaign sign on a tree located near the guard shack.

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He admits that the tree was on UPS property. As he prepared to leave, Mr. Russ discovered that his sign was missing. He went to the guard shack to inquire about the sign and found the guard disposing of it. The guard informed Mr. Russ that a UPS manager had told him to throw it away.

Article VIII, Section 11(e) of the *Rules* creates a limited right-of-access to IBT members and candidates to distribute literature and seek support for their campaign in employee parking lots. While "presumptively available," this right is not without limitations. The purpose of Article VIII, Section 11(e) is to provide a limited opportunity for meaningful, face-to-face communication, including discussion and distribution of campaign materials. It does not provide the right to post campaign materials on an employer's property. The Election Officer therefore finds that Mr. Russ did not have the right to post a sign on UPS property and that UPS did not violate the *Rules* when it removed the sign and disposed of it.

For the foregoing reasons, this protest is DENIED.

Any interested party not satisfied with this determination may request a hearing before the Election Appeals Master within one day of 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:

Kenneth Conboy, Esq.  
Latham & Watkins  
885 Third Avenue, Suite 1000  
New York, NY 10022  
Fax (212) 751-4864

Copies of the request for hearing must be served on the parties listed above as well as upon the Election Officer, 400 N. Capitol Street, Suite 855, Washington, DC 20001, Facsimile (202) 624-3525. A copy of the protest must accompany the request for a hearing.

Sincerely,

Barbara Zack Quindel  
Election Officer

cc: Kenneth Conboy, Election Appeals Master

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Christine M. Mrak, Regional Coordinator