

February 12, 1996

VIA UPS OVERNIGHT

Slobodan Golubovic
5908 S. Western Avenue
Clarendon Hills, IL 60514

Cassens Transport Company
145 N. Kansas Street
Edwardsville, IL 62025

Thomas Zitt, Terminal Manager
Cassens Transport Company
3401 Liberty Street
Aurora, IL 60504

Frank J. Wsol, Secretary-Treasurer
Teamsters Local Union 710
4217 S. Halsted Street
Chicago, IL 60609

Roy Redlich, Terminal Manager
Cassens Transport Company
203 State Street
Chicago Heights, IL 60411

Re: Election Office Case No. P-268-LU710-CHI

Gentlemen:

A pre-election protest was filed pursuant to Article XIV, Section 2(b) of the ***Rules for the 1995-1996 IBT International Union Officer Election ("Rules")*** by Slobodan Golubovic, a member of Local Union 710.

Mr. Golubovic alleges that officers and/or agents of Cassens Transport Company ("Cassens") and Local Union 710 collaborated to use employer resources to smear his reputation because of his union political activities. Specifically, Mr. Golubovic alleges that Local Union 710 and Cassens produced and circulated through a Cassens facsimile machine a flyer with his picture and derogatory text about him. Mr. Golubovic states that the flyer was posted on Cassens' premises in Aurora, Illinois, and perhaps other terminals employing IBT members. Finally, Mr. Golubovic alleges that the flyer is further evidence that Local Union 710 and Cassens collaborated on and fabricated his employment discharge from Cassens.

This protest was investigated by Regional Coordinator Julie Hamos.

Mr. Golubovic submitted a copy of the protested flyer. At the top of the flyer is facsimile type identifying "Cassens Transport Aurora," "FAX NO. XXX-XX-XXXX5" and the time and date of the fax, "NOV-29-95 WED 9:51." The flyer speaks of Mr. Golubovic in derogatory terms. It states:

When asked by his Steward to contribute more than just the ten dollars he had very reluctantly given the week before, He said "Go F_ck yourself. No one took up collection [sic] for me when I was fighting for my discharge." He also worked during the entire strike and never visited a picket line, nor help leaflet dealerships.

He's the No. 1 seniority driver and the top \$\$\$ maker of his terminal. He's also a good friend of Ron Carey's, having called upon him on several occasions for "special attention." He's also an avowed TDUer and perennial candidate who can't seem to collect many votes.

During the investigation, Cassens' Director of Labor Relations Joe Clark, was contacted regarding the identification of Cassens on the document. Mr. Clark asked Thomas Zitt, terminal manager at Cassens' Aurora facility, to conduct an investigation as to whether anyone at Cassens produced or distributed the flyer. Mr. Zitt's investigation was unable to determine that any Cassens employee or agent was involved with the flyer. Mr. Clark stated that union representatives have held meetings inside the Cassens terminal office, and despite a prohibition against using the fax machine in the office, the machine has occasionally been used by union representatives. Mr. Clark confirmed that the anti-Golubovic flyer had been posted on a door at the Chicago Heights terminal. He stated that although Cassens' policy does not permit such postings "in the real world, that happens."

Mr. Golubovic provided the investigator with the names of four people who "might" have some knowledge of how the flyer was distributed. One witness stated that he saw the anti-Golubovic flyer in a Yellow Freight dispatch office in the St. Paul (Burnsville terminal). He retrieved five copies of the flyer from the office, none of which contained Cassens' facsimile heading or anything else indicating origination from Cassens. Another local union member saw the anti-Golubovic flyer posted on a door at Cassens' Chicago Heights terminal. This copy of the flyer contained the Cassens facsimile number and other information as stated above. Two other witnesses identified by Mr. Golubovic could not be reached because the protester provided inadequate information.

Article XII, Section 1(b)(1) of the **Rules** prohibits an employer or local union improper campaign contributions by a union or employer. Article VIII, Section 11(f) of the **Rules** prohibit retaliation for exercising any rights guaranteed under the **Rules**.

The protester bears the initial burden of proof to offer evidence substantiating an allegation. In Re: Chentnik, 95 - Elec. App. - 52 (KC) (January 10, 1996). Here, Mr. Golubovic has presented evidence that links a Cassens' facsimile machine to the flyer's distribution. No evidence has been uncovered by the Election Officer, however, that is sufficient to identify who produced or distributed the flyer. The content of the flyer indicates

that it may have been written by a member of Local Union 710 who opposes the protester's candidacy.¹ Certain local union members and Cassens agents had access to the facsimile machine. Nonetheless, the identity of the individual(s) who sent or reproduced the facsimile has not been established, and there was no evidence of collaboration between Cassens and the leadership of Local Union 710.

The Election Officer finds, however, that in some instances the flyer was sent directly from the Cassens' facsimile machine and improperly posted at some of its facilities. Although the investigation did not reveal the identity of the individual who produced and distributed the flyer, she views such use of the employer facilities as counter to the fundamental purpose of the **Rules** and the Consent Decree to create an open and free atmosphere for an uncoerced, free, fair and honest election among IBT members.

Therefore, in order to insure that the membership is aware of their right to freely, openly and actively participate in the delegate and International officer elections, the Election Officer directs that within five (5) days of the date of this decision, Cassens duplicate and post the attached notice on all bulletin boards in its facilities where members of Local Union 710 are employed.² Mr. Clark shall submit an affidavit within ten (10) days of the date of this decision demonstrating that the posting has been accomplished.

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:

¹For several months, Mr. Golubovic has been a declared candidate for delegate to represent Local Union 710 at the International convention. He is a known Carey supporter and political opponent of International vice president candidate and Local Union 710 Secretary-Treasurer Frank Wsol.

²In Gregory, P-800-LU135-SCE (July 18, 1991), the Election Officer directed the local union's principal officer to post a notice to members explaining that members will not be retaliated against for exercising their rights under the election **Rules** despite a lack of direct evidence implicating local union agents. There, the protester's car had been vandalized during a local union meeting. While the perpetrator could not be identified, the Election Officer found circumstantial evidence sufficient to impose a similar remedy.

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Kenneth Conboy, Esq.
Latham and 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 North Capitol Street, Suite 855, Washington, D.C. 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
Julie E. Hamos, Regional Coordinator

**TO ALL MEMBERS OF LOCAL UNION 710 EMPLOYED BY
CASSENS TRANSPORT COMPANY**

We are posting this letter at all Cassens Transport facilities that employ Local Union 710 members to clarify and emphasize that no employer resources shall be used to influence, positively or negatively, the election of a candidate seeking election to serve as delegate or International Officer in the IBT election. This prohibition includes, but is not limited to company facilities, equipment, including, but not limited to, copies and facsimile records, endorsements and personnel. All union employees may support any candidate or group of candidates. All union employees have the right to refuse to support a particular candidate or group of candidates.

Joe Clark
Director of Labor Relations

This is an official notice which must remain posted for 30 consecutive days and must not be defaced or altered in any manner or be covered with any other material.

Approved by Barbara Zack Quindel, IBT Election Officer.