

September 30, 1996

VIA UPS OVERNIGHT

Cathlene Thomas
1903 W. Winnemac #3
Chicago, IL 60640

Browning-Ferris, Inc.
5050 W. Lake Street
Mt. Rose Park, IL 60160

John Sexton Contractors
1815 S. Wolf Road
Hinsdale, IL 60162

Ron Carey, General President
International Brotherhood of Teamsters
25 Louisiana Avenue, N.W.
Washington, DC 20001

Larry Zuley
Hillside Police Station
30 N. Wolf Road
Hillside, IL 60162

Nathaniel K. Charny
Cohen, Weiss & Simon
330 W. 42nd Street
New York, NY 10036

Jim Butler
Congress Development
4100 Frontage Road
Hillside, IL 60162

Re: Election Office Case No. P-922-LU347-CHI

Gentlepersons:

Cathlene Thomas, a member of Local Union 347, filed a pre-election protest pursuant to Article XIV, Section 2(b) of the *Rules for the IBT International Union Delegate and Officer Election ("Rules")* alleging that Congress Development ("Congress"), an IBT employer, violated the *Rules* when it barred her from campaigning at the entrance to its facility on August 30, 1996.

Congress responds that leafleting trucks as they turn into the site is both "very dangerous" and an interference with operations. In addition, it states that it would have afforded Ms. Thomas an

opportunity to come onto the property to leaflet, but that she was “very rude” and would not discuss the issue.

This protest was investigated by Regional Coordinator Julie E. Hamos.

The Election Officer’s investigator visited the property and discussed the protest with Office Manager Joy Kolowski. Congress is a landfill. Its employees are not IBT members. The trucks that come in to dump garbage, dirt or debris are operated by customers of the landfill who pay for access to it. Some of the trucks that come through the facility are driven by Teamsters.

On the morning of August 30, 1996, the protester attempted to leaflet on behalf of the Carey campaign at the entrance to Congress’ landfill. As she was leafleting, a person, who would not identify himself, told her she could not leaflet at the site. Ms. Thomas told the person that she was there to leaflet for the International election, but the unidentified person continued to insist that she could not leaflet there. The person then called the police. When the police arrived, they told Ms. Thomas that she could not leaflet there and threatened her with arrest.

Under the *Rules*, a non-employee may gain access to employer premises: (1) under the “parking lot rule,” which creates a limited right for non-employees to campaign in parking lots where members park their cars;¹ and (2) if the employer has allowed access to non-employees in the past.² Congress has no employee parking lot on its premises where IBT members park their cars, and no evidence has been presented of a pre-existing right for non-employees to campaign on Congress’ premises.

Regional Coordinator Julie E. Hamos discussed the matter with Congress and the protester, and Congress has offered the following accommodation. Under Congress’ normal procedures, all trucks must be weighed when they enter the facility. The trucks enter the area and line up in two lanes. The drivers then enter the building to sign a ticket and pay for usage. There is some time during which drivers must wait their turn to have their trucks weighed.

¹Article VIII, Section 11(e)(iii) of the *Rules* states “a candidate for International office and any Union member within the regional area(s) in which said candidate is seeking office may distribute literature and/or otherwise solicit support in connection with such candidacy in any parking lot used by Union members to park their vehicles in connection with their employment in said regional area(s).”

²Article VIII, Section 11(d) of the *Rules* states “no restrictions shall be placed upon candidates’ or members’ preexisting rights to solicit support, distribute leaflets or literature, conduct campaign rallies, hold fund-raising events or engage in similar activities on employer or Union premises.”

Congress has stated that IBT members wishing to campaign must enter the building and sign in. Congress will then allow campaigners to speak to and leaflet the drivers as they await their turn on the line. Congress states that this arrangement will be acceptable as long as the campaigning does not interfere with their operations. The protester is satisfied with this resolution.

Under these circumstances, the Election Officer concludes that further processing of this protest is unwarranted. The protester's complaint, as stated in this protest, has been addressed, and relief has been provided.

Accordingly, this protest is now RESOLVED.

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
Julie E. Hamos, Regional Coordinator