

May 21, 1998

VIA UPS OVERNIGHT

Ron Casteel
4232 124th Place
Alsip, IL 60658

Gerald Zero, Secy. - Treas.
Teamsters Local Union 705
1645 West Jackson Boulevard
Chicago, IL 60612

Greg Foster, Union Steward
Teamsters Local Union 705
1645 West Jackson Boulevard
Chicago, IL 60612

Re: Election Office Case No. PR-085-LU705-NCE

Gentlemen:

Ron Casteel, a member of Local Union 705, 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")* against Greg Foster. Mr. Foster is a member of Local Union 705 and serves as a steward at a freight terminal operated by the Roadway Express Company ("Roadway") on West 51st Street in Chicago, Illinois. Mr. Casteel alleges that Mr. Foster improperly removed campaign material posted on a bulletin board in the West 51st Street facility. Mr. Foster admits that he removed some postings from this bulletin board but does not specifically recall whether any campaign materials were among the items removed.

The protest was investigated by Regional Coordinator Judith E. Kuhn.

Mr. Casteel is employed by Roadway as a driver. According to him, the campaign material was posted at the location alleged on or about April 6 or April 7, 1998. Mr. Casteel asserts and Mr. Foster agrees, that union members employed by Roadway have regularly used this bulletin board in the past to exhibit various general items including campaign literature. Mr. Taylor, a friend and co-worker to Mr. Casteel, states that he observed Mr. Foster remove the campaign material a few minutes after the protester left the area.

Although much of the material placed by Mr. Casteel on this bulletin board related to other matters, two of the items contained the heading "Hoffa News from Hoffa Now." On both documents, the word "Hoffa" was displayed in large bold type in the top left corner. One of the documents, dated March 4, 1998, contained an article entitled "New IBT Election Schedule." "Secret Nash Memo Blows The Lid Off Ron Carey's Corruption!" was the title of the other article, dated March 20, 1998. The Election Officer finds that these two documents constitute campaign literature.

Mr. Foster admits that on or about April 6 or April 7, 1998, he removed certain material posted on this bulletin board which he considered inappropriate. He submitted several examples of the removed material, including a notice announcing an upcoming local union meeting and a local union notice containing a motion which had been proposed at a recent union

Ron Casteel
May 21, 1998
Page 2

meeting. Both of these documents had been defaced with crude off-color or insulting references.

Mr. Foster cannot specifically deny having removed material posted by Mr. Casteel. He does clearly recall, however, that another item of Hoffa campaign literature was posted the next day, April 8, 1998, and was still posted on the day of his interview with the Election Officer's representative. Mr. Foster states that he is not in the "business" of removing campaign material and that supporters of various candidates for International office posted supportive materials on this bulletin board during the 1996 election without incident.

The **Rules** at Article VIII, Section 11(d) provides in pertinent part that "[N]o restrictions shall be placed upon candidates' or members' preexisting rights to use employer or Union bulletin boards for campaign publicity." The existence of a preexisting right to use employer bulletin boards for campaign purposes may be established through a review of the manner in which the bulletin board has been used in the past. Kirkpatrick, P-1243-LU630-CLA (November 27, 1996); Blake, P-953-LU848-CLA (October 30, 1991); In Re: Hall, 90 - Elec. App. - 1 (October 4, 1990); Brinkman, P-151-LU305-PNW (September 18, 1995), aff'd, 95 - Elec. App. - 21 (KC) (October 10, 1995).

The parties do not dispute that the Roadway bulletin board is regularly used by members supporting candidates for International office to post campaign-related literature. There is credible evidence that some of the material posted by the protester and removed by Mr. Foster supported the candidacy of Mr. Hoffa.

There is a pre-existing right to use this bulletin board to post campaign literature and the Election Officer determines that Mr. Foster removed the campaign literature that the protester had posted.

Accordingly, the protest is GRANTED.

When the Election Officer determines that the **Rules** have been violated, he "may take whatever remedial action is appropriate." Article XIV, Section 4. In fashioning the appropriate remedy, the Election Officer views the nature and seriousness of the violation, as well as its potential for interfering with the election process.

The Election Officer therefore orders the following:

1. Mr. Foster shall immediately cease and desist from removing campaign literature posted on the employee bulletin board located at the Roadway terminal on West 51st Street in Chicago, Illinois.
2. Within three (3) days of receiving this decision, Mr. Foster shall post the attached notice on the employee bulletin board referred to in paragraph one (1) above for 30 days.

Ron Casteel
May 21, 1998
Page 3

3. Within five (5) days of receipt of this decision, Mr. Foster will submit an affidavit to the Election Officer in which it acknowledges compliance with this decision.

An order of the Election Officer, unless otherwise stayed, takes immediate effect against a party found to be in violation of the **Rules**. In Re: Lopez, 96 - Elec. App. - 73 (KC) (February 13, 1996).

Any interested party not satisfied with this determination may request a hearing before the Election Appeals Master within one (1) 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, 444 North Capitol Street, NW, Suite 445, Washington, DC 20001, Facsimile (202) 624-3525. A copy of the protest must accompany the request for a hearing.

Sincerely,

Michael G. Cherkasky
Election Officer

MGC:chh
Enclosure

cc: Kenneth Conboy, Election Appeals Master
Judith E. Kuhn, Regional Coordinator

NOTICE TO TEAMSTER MEMBERS EMPLOYED BY ROADWAY EXPRESS

You have the right to participate in campaign activities on behalf of candidates for International Officer in the IBT.

You have the right to post campaign material on general purpose bulletin boards not reserved for official company or union announcements.

No one, including union representatives and members, can remove the campaign material or otherwise prohibit you from engaging in the above-described campaign activity.

You do not have the right to engage in any conduct which reduces production, decreases discipline, is unsafe or in any way interrupts the business of Roadway Express.

Michael G. Cherkasky
IBT Election Officer

This is an official notice and must remain posted for 30 consecutive days from the day of posting, and must not be altered, defaced or covered by any other material.