

OFFICE OF THE ELECTION OFFICER
% INTERNATIONAL BROTHERHOOD OF TEAMSTERS
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FILE

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Election Officer

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November 22, 1991

VIA UPS OVERNIGHT

Archie J. Cook
4508 Balmoral Drive
Richton Park, IL 60471

William T. Hogan, Jr., Secretary-Treasurer
IBT Local Union 714
6815 W. Roosevelt Rd.
Berwyn, IL 60402

Leroy Ellis
18807 Oakwood Avenue
Country Club Hills, IL 60478

Re: Election Office Case No. P-1077-LU714-CHI

Gentlemen:

A protest was filed pursuant to Article XI of the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("*Rules*") by Archie M. Cook on behalf of Leroy Ellis, a candidate for Central Conference Vice President on the Ron Carey Slate. The protest concerns a campaign demonstration held on November 11, 1991 (Veteran's Day holiday), from 10:00 a.m. to 10:30 a.m. at the Daley Civic Center on behalf of William T. Hogan, Jr., a candidate for Central Conference Vice President on the R. V. Durham Unity Team. Mr. Cook and Mr. Ellis allege various improprieties in the manner in which this event was financed and conducted. This protest was investigated by Regional Coordinator Julie E. Hamos.

Four trucks containing campaign posters for Mr. Hogan and the R. V. Durham Unity Team were driven on the streets around the Civic Center. It is alleged that the trucks were provided at no cost or at below-market rate to the Hogan and Unity Team campaigns by their owners. The protest, contending that the trucks were provided by employers as defined by the *Rules*, claims that using these trucks constitutes improper employer contributions to candidates for IBT International Union office in violation of Article X, § 1 of the *Rules*.

¹ The Daley Civic Center is a central plaza bordered by Chicago and Cook County governmental buildings located in the downtown area of Chicago, Illinois.

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Investigation discloses that the arrangements for use of the trucks were made by Ronald Maxwell, a member of Local Union 714 who also owns a company called L. C. Leasing. Three of the tractors were owned by Mr. Maxwell through L. C. Leasing and were loaned by him to the Hogan campaign for the November 11 demonstration. Mr. Maxwell rented the fourth tractor from a company called Rollins Leasing for the sum of \$650.88 for a five-day period; Mr. Maxwell has received a bill for the rental, presented the bill for the rental to the Hogan campaign organization and expects to be reimbursed.

Mr. Maxwell rented four truck trailers from J & J Motor Services, Inc. These particular trailers rented were old and were not used frequently; the cost of the rental was \$90.00 per month, which the Election Officer investigation established was the standard rate for renting these particular trailers. Again, Maxwell will submit a bill for the rental of these trailers to the Hogan campaign for reimbursement when the trailers are returned.

Mr. Cook and Mr. Ellis contend that J & J Motor Services employs members of Local 714 and that the use of its truck trailers constitutes an improper employer contribution. However, the investigation discloses that J & J Motor Services has been, or will be, paid a normal and customary charge for the rental of its property by Mr. Hogan and his campaign. Therefore, there is no employer contribution involved. See, e.g., *Rules*, Definitions, ¶ 6 at A-2. The only contribution in this matter is Mr. Maxwell's donation of three tractors; however, since Mr. Maxwell is a member of IBT Local Union 714, he is entitled to make contributions even though he is also an employer. *Rules*, Article X, § 1(a)(5). Thus, the Election Officer concludes that there was no violation of the *Rules* in the use of the four trucks at the campaign demonstration.²

Union members involved in the demonstration were transported to the Civic Center in two mini-vans. Each was rented for \$50.00; the bill was submitted to be paid by the Hogan campaign. The charges are the standard fee for such rentals.

All four trailers, eight sides, were painted by Creative Studios, a commercial enterprise located in the Chicago area. The charge for the work performed by Creative Studios is \$1,920.00. Creative Studios has billed the William Hogan Campaign Fund

² Mr. Cook also contends that special permits were required to be issued by the City of Chicago for trailers of this size to be driven in downtown Chicago. No special permits were obtained. Even assuming that the use of the trailers violated some municipal ordinance and presumably subjected the truck drivers or the vehicles' owners to some traffic or quasi-criminal penalty that would not constitute a violation of the *Rules*.

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for this amount. The paint is being removed by volunteers, who are performing this work on time that is neither Union-paid work time nor employer-paid work time. The volunteers are using Easy-Off as directed by Creative Studios. Creative Studios states that removal of the paint is easy and not time-consuming.

A Local 714 automobile used by William T. Hogan, Jr. was at the demonstration. Mr. Hogan uses this vehicle for personal business and this personal use is treated as additional compensation by the Local and reported by Mr. Hogan as additional personal income. In a previous Election Office matter, In Re: Gregory/Spurgeon and IBT Local Union No. 135, affirmed 91-Elec. App.-135 (SA), the Independent Administrator considered a similar complaint involving the use of a Union-owned car for campaigning purposes. The Independent Administrator affirmed the Election Officer's ruling that use of the car under circumstances such as exist here was not an improper campaign contribution by a Union in violation of the *Rules*: "...Given that the Local Union cars are used by the business agents for personal reasons, it is not a violation of the *Election Rules* for a business agent to use his car to travel to a worksite to campaign." Id. at page 4.

It is alleged that individuals who participated in the demonstration wore Local 714 jackets and were "on paid time." There is no evidence to support this contention. The participants in the demonstration, including the individuals who drove the trucks, were volunteers -- one a retired IBT member and the other three members who were not working that day and therefore available for such campaign activity. No Local 714 Business Agents were present with one exception, Geno Rodriguez. The Local claims that this participation was incidental to his regular Union duties and thus within the parameters of Article VIII, § 10(b) of the *Rules*. In view of the limited time period involved, the Election Officer finds no violation of Mr. Rodriguez' presence at the event.

The *Rules* do not restrict the right of IBT members to engage in campaign activity while wearing buttons, hats or other paraphernalia demonstrating their membership in the IBT or a particular IBT Local. The *Rules* do not prohibit wearing Union jackets or similar items while a member engages in campaign activities.

Finally, Mr. Cook and Mr. Ellis complain about the extensive media coverage of the event and the extensive use of campaign posters. Media coverage of a campaign event, or the 1991 IBT International Union officer election as a whole, does not violate the *Rules*. See, e.g., Election Office Case No. P-971-IBT. The *sine qua non* of any election campaign event or demonstration is the use of campaign posters; using posters proclaiming a particular IBT International officer candidate is a campaign rally for the candidate does not violate the *Rules*.


In sum, there is no evidence that the *Rules* were violated as a result of the

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demonstration on November 11, 1991. Accordingly, the Election Officer DENIES this protest.

If any interested party is not satisfied with this determination, they may request a hearing before the Independent Administrator within twenty-four (24) hours of their 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 Independent Administrator Frederick B. Lacey at LeBoeuf, Lamb, Leiby & MacRae, One Gateway Center, Newark, New Jersey 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.

Very truly yours,


Michael H. Holland

MHH/mjv

cc: Frederick B. Lacey, Independent Administrator

Julie E. Hamos, Regional Coordinator

Ron Carey
c/o Richard Gilberg, Esq.

Walter Shea
c/o Robert Baptiste

R. V. Durham
c/o Beins, Axelrod, Osborne