



OFFICE OF THE ELECTION OFFICER  
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Michael H Holland  
Election Officer

October 26, 1990

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VIA UPS OVERNIGHT

Mr. Gary L. Gregory  
9601 Bakeway Drive  
Indianapolis, Indiana 46231

Mr. Danny L. Barton  
Secretary-Treasurer  
IBT Local Union 135  
1233 Shelby Street  
Indianapolis, In 46203

Re: Election Office Case No. P-013-LU135-SCE

Gentlemen:

A pre-election protest was filed with this office pursuant to the Rules for the IBT International Union Delegate and Officer Election, revised August 1, 1990 ("Election Rules"). In that protest the complainant alleges that his right to inspect and take notes from collective bargaining agreements covering Local Union 135 members was effectively denied by the Local Union in violation of Article VIII, Section 1 of the Election Rules. Based upon the allegations contained in the protest and the investigation of these allegations by the Regional Coordinator, the Election Officer concludes that the Election Rules have been violated by Local Union 135.

The complainant is an announced candidate for delegate to the 1991 IBT Convention. By letter to Local Union 135, dated October 10, 1990, the complainant requested the opportunity to inspect and make notes from all collective bargaining agreements covering all members of the Local Union. In the alternative, the complainant requested a copy of a complete work site list of all employers employing members of Local Union 135. By letter dated October 15, 1990, Local Union 135 responded to the request stating that it did not elect to satisfy its obligation under Article VIII, Section 1 by providing candidates with a work site list and would make contracts available for inspection and note taking by candidates. However, the Local Union informed the complainant that these agreements were not maintained in a central location and that the complainant would have to travel to each local union office across the state to view the agreements.

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The Election Rules require that if a Local Union does not provide work site lists to candidates, it must permit candidates to review and take notes from collective bargaining agreements covering members of the Local Union. Implicit in the Local Union's obligation to make collective bargaining agreements available, is the obligation to make such agreements available on a reasonable basis. Collective bargaining agreements are not available on a reasonable basis if the Local Union unreasonably limits the times or locations for their review by candidates. The determination of what constitutes reasonable access must be made on a case by case basis. Factors to be considered include whether contracts can be inspected at any time during the local union's regular office hours and whether contracts are available at locations that are reasonably accessible to candidates.

In the instant case the Local Union will make the agreements available at any time during the union's regular office hours, i.e. 8 00 a.m. to 5 00 p.m., Monday through Friday. The complainant has offered no evidence that the times for inspection is unreasonable. However, the Local Union states that its agreements are not available at a single location and that a candidate must visit a number of offices throughout the state on Indiana to inspect all of the agreements.

The Election Officer finds that Local Union 135 has not made collective bargaining agreements available for inspection and review by candidates on a reasonable basis as required by the Election Rules. To remedy this violation of the Election Rules the Election Officer orders Local Union 135 to comply with the following:

1. Local Union 135 shall make all of its collective bargaining agreements covering all of its members available for inspection by the complainant at its principal office in Indianapolis, Indiana.

2. Such agreements shall be available for inspection and note taking by the complainant during regular office hours. The complainant shall give the Local Union 24 hours notice of his intent to visit the office to inspect the agreements and an estimate of the amount of time he will be in the office on that day.

The Local Union shall comply with this order within 5 days of its receipt of this letter. The Local Union Secretary-treasurer shall, within 10 days of the receipt of this letter, file with the

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Election Office an affidavit detailing the Local Union's compliance with this order.

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. Such request shall be made in writing and shall be served on Independent Administrator Frederick B. Lacey at LeBoeuf, Lamb, Leiby & MacRae, One Gateway Center, Newark, N.J. 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 / JJS*

Michael H. Holland

cc: Frederick B. Lacey, Independent Administrator, IBT  
Peggy A. Hillman, Regional Coordinator

IN RE:	:	90 - Elec. App. - 7
GARY GREGORY	:	DECISION OF
and	:	THE INDEPENDENT
IBT LOCAL UNION 135, et al.	:	ADMINISTRATOR

**I. Introduction**

A hearing was held on November 1, 1990, in the above entitled matter. It was done by teleconference. Participating were Messrs. John Sullivan (for the Election Officer), Gary Gregory (the Complainant and Respondent on this appeal), and John Louis Neal (President of Local Union 135, the Appellant).

The nature of the dispute and the Election Officer's Findings of Fact are set forth in the Election Officer's Summary as follows (pp.1-3):

**Nature of the Protest**

This pre-election protest arises under Article VIII, Section 1 of the Rules for the IBT International Union Delegate and Officer Election, revised August 1, 1990 ("Rules"). The complainant alleges that Local Union 135 violated the Election Rules because it did not make all collective bargaining agreements, covering all members of Local Union 135, reasonably available for inspection and note taking.

**Findings of Fact**

None of the facts relevant to the protest are in dispute.

1. The complainant is a member in good standing of Local Union 135 and a candidate for delegate to the 1991 IBT Convention.

2. By letter dated October 10, 1990, the complainant requested the opportunity to inspect and make notes from all of the collective bargaining agreements covering members of Local Union 135 in accordance with Article VIII, Section 1(a) of the Election Rules. In the alternative, the complainant requested a worksite list for all members of Local Union 135.

3. By letter dated October 15, 1990, the Local Union responded to the complainant's request to inspect collective bargaining agreements stating that the agreements were available for inspection at its various offices during normal office hours.

4. Local Union 135 represents 17,000 members throughout the state of Indiana.

5. Local Union 135 maintains 10 offices throughout the state.

In relying upon his Conclusions, the Election Officer, in his Summary, (Election Officer's Determination, p.4), stated as follows:

#### Election Officer's Determination

The Election Officer determined that Local Union 135 violated the Election Rules because it failed to make collective bargaining agreements reasonably available for inspection and note taking by a candidate. To remedy this violation, the Election Officer ordered Local Union 135 to make the agreements available to the complainant at the union's principal office in Indianapolis during normal business hours. The Election Officer, in order to accommodate the legitimate operational concerns of the Local Union, directed the complainant to give the Local Union twenty-four hours' notice of his intent to review the agreements and to inform the union of the approximate times he will be at the union's office inspecting the agreements.

## II. Decision

After hearing from the parties, I affirm the decision of the Election Officer for the reasons expressed in his Summary. It is

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clearly in the interests of advancing the goals of the Consent Order and the Election Rules that I do so.

While I recognize the hardship imposed upon the Local by the Election Officer's ruling, in terms of balancing the interests involved here, it would impose virtually an impossible burden upon Mr. Gregory to rule to the contrary.

Accordingly, the decision of the Election Officer is upheld.

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Frederick B. Lacey  
Independent Administrator

Dated: November 2, 1990