

***PRE-ELECTION  
PROTEST  
DECISIONS***

***ELECTION OFFICE CASE NOS.***

***P-1001-LU63-CLA to P-1035-LU1149-PGH***

***VOLUME XXIV***

***Michael H. Holland  
Election Officer  
June 1992***

OFFICE OF THE ELECTION OFFICER  
% INTERNATIONAL BROTHERHOOD OF TEAMSTERS  
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Michael H. Holland  
Election Officer

Chicago Office:  
% Cornfield and Feldman  
343 South Dearborn Street  
Chicago, IL 60604  
(312) 922-2800

October 28, 1991

**VIA UPS OVERNIGHT**

Gerald Moerler  
13104 Glen Ct. #40  
Chino Hills, CA 91709

Everett J. Roberts  
Trustee  
IBT Local Union 63  
1616 W. Ninth St.  
Room 205  
Los Angeles, CA 90015

Walter Shea  
c/o Robert Baptiste, Esquire  
Baptiste & Wilder  
1919 Pennsylvania Avenue, N.W.  
Suite 505  
Washington, D.C. 20006

Robert Aquino  
c/o IBT Local Union 63  
1616 W. Ninth St.  
Room 205  
Los Angeles, CA 90015

Re: Election Office Case No. P-1001-LU63-CLA

Gentlemen:

A protest was filed pursuant to the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("*Rules*") by Gerald Moerler, a member of Local 63 and supporter of IBT General President candidate Ron Carey and the International Union officer candidates on his slate. He alleges that at a general membership meeting of Local Union 63, held on October 20, 1991, the *Rules* were violated when a resolution was passed endorsing the Shea-Ligurotis Action Team slate. The protest was investigated by Regional Coordinator Geraldine Leshin and the Washington, D.C. office of the Election Officer.

At the October 20, 1991 Local Union 63 membership meeting, a resolution was presented from the floor "that Local 63 members and their officers when acting in an official capacity firmly and publicly endorse the Shea-Ligurotis Action Team slate in the upcoming IBT national election." The "whereas" portions of the resolution contained negative references to the R. V. Durham Unity Team and to Unity Team slate members R. V. Durham and Mike Riley, seeking election to the offices of General President and Vice President, respectively. The resolution contained further favorable references to the Shea-Ligurotis Action Team.

Mr. Moerler suggested the resolution was out of order. His point of order was overruled; the presiding officer at the meeting, Everett J. Roberts, the Trustee of Local Union 63, stated that he would permit the resolution to be voted upon with the

Gerald Moerler  
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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

Geraldine L. Leshin, Regional Coordinator

Ron Carey  
c/o Richard Gilberg, Esquire  
Cohen, Weiss & Simon  
330 West 42nd Street  
New York, NY 10036-6901

R. V. Durham  
c/o Hugh J. Beins, Esquire  
Beins, Axelrod, Osborne  
& Mooney  
2033 K St., NW  
Suite 300  
Washington, D.C. 20006-1002

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the members who voted in its favor - demonstrates that no further remedy is required.

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November 1, 1991

**VIA FACSIMILE AND UPS OVERNIGHT**

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

Leroy Ellis  
18807 Oakwood Avenue  
Country Club Hills, IL 60478  
(FAX 708-799-0004)

Gary J. Sullivan  
President  
IBT Local Union 916  
2701 North Dirksen Parkway  
Springfield, IL 62708  
(FAX 217-522-9492)

Re: Election Office Case No. P-1002-LU916-SCE

Gentlemen:

A protest was filed pursuant to the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("*Rules*"). The protest was filed by Archie J. Cook on behalf of Leroy Ellis, a nominated candidate for IBT International Vice President for the Central Conference of Teamsters. In that protest, Mr. Cook alleges that Local Union 916 violated the *Rules* because of defects in the work-site list provided to Mr. Ellis in response to his request pursuant to Article VIII, § 1 of the *Rules*. The Election Officer's investigation revealed the following.

A request was sent on behalf of Mr. Ellis to Local Union 916 for a list of all work sites where members of the Local Union are employed. This request, made pursuant to Article VIII, § 1(a) of the *Rules*, was made in writing to the President of Local Union and was mailed to the Local Union's address contained in the current IBT official roster via certified mail on October 9, 1991. The letter was not received by the Local Union until October 15, 1991. On October 16, 1991, Mr. Cook faxed a letter to the Local Union office demanding the production of the work-site list. On Friday, October 18, 1991, the Local Union sent Mr. Ellis a work-site list, via overnight mail for Saturday delivery. On October 21, 1991, Mr. Cook filed the instant protest alleging that the work-site list provided by the Local Union was defective because it did not contain a complete list of employers or accurate work locations.

The list sent to Mr. Cook on October 18, 1991 contained 57 employers, with 12 listed simply by name, by mailing address or information other than actual work locations. After receipt of Mr. Cook's protest, the Regional Coordinator contacted the Local Union and an additional list was prepared. This new list was sent to Mr. Cook by overnight mail on October 23, 1991. The new list contained the names of approximately 75 employers, with approximately 15 entries containing incomplete

Archie J. Cook  
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In the instant case, the original work-site list provided to Mr. Ellis was missing approximately 24% of the work sites. In addition, information for a significant number of the employers identified, 12 out of 57--or over 20%--was inadequate. Mr. Ellis made no attempt to contact the Local about the inadequacies of the work-site list; rather, he filed this protest. The Local Union, after receiving notice of Mr. Ellis' claims, by receipt of his protest and the contact by the Regional Coordinator, supplemented the original list in two working days with a revised list. While this list and the additional information readily available from the Local Union regarding the location of employer in rural areas was an improvement, the list continued to contain inadequate information regarding the locations of the six employers identified above.

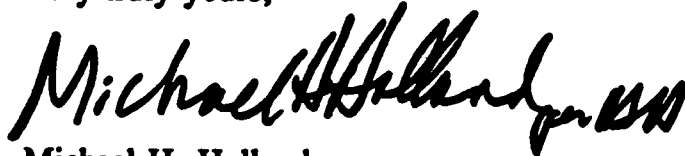
Because the Local Union failed to provide Mr. Ellis with a complete and accurate work-site list in response to his request, the Local Union violated the *Rules*. The Election Officer orders the following to remedy this violation.

1. The Local Union shall mail to its members employed by Morgan County Services, Stahly Cartage, Pepsi Cola, Urbana Champaign Sanitary District, Jacksonville Beer Distributors and the Adams County Highway Department campaign literature on behalf of Leroy Ellis. The literature to be mailed shall be tendered to Local Union 916 by Mr. Ellis, shall not exceed one page, 8 1/2 by 11 inches, shall not contain any photographs (but may be printed on both sides), and shall be suitable for mailing in a tri-fold format without a separate envelope.
2. The Local Union shall make adequate copies of the literature provided by Mr. Ellis for mailing to each member employed by the employers listed above. The Local Union shall pay postage and mail the literature to such members on or before November 8, 1991 via first class mail. Within three days of such mailing, the Local Union shall file with the Election Officer an affidavit setting forth its compliance with this order, attaching a copy of the material mailed.
3. Mr. Ellis shall submit a camera-ready copy of his literature to the Local Union no later than 5:00 pm CST on November 4, 1991. Mr. Ellis shall also provide the Election Officer with a copy of the material at the time he provides it to the Local Union.
4. In accordance with Article XI, § 2(z) of the *Rules*, no appeal of this determination shall stay the effectiveness of this order.

Archie J. Cook  
November 1, 1991  
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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,

A handwritten signature in black ink that reads "Michael H. Holland". The signature is written in a cursive style with a large, stylized "M" and "H".

Michael H. Holland

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

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Michael H. Holland  
Election Officer

November 4, 1991

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**VIA UPS OVERNIGHT**

Steven Silverman, Secretary-Treasurer  
Dennis M. Silverman, President  
IBT Local Union 810  
10 E. 15th St.  
New York, NY 10003

Anthony Veltry  
88-41 62nd Drive  
Rego Park, NY 11374

Re: Election Office Case No. P-1003-LU810-NYC

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 Steven Silverman, Secretary-Treasurer of Local 810. In his protest, Mr. Silverman charges that Anthony Veltry, a member of the Local, misused a worksite list in violation of Article VIII, § 1(d) of the *Rules*. Mr. Silverman claims that Mr. Veltry visited the 28th Street store of Sam Flax Art Supply Company, where he campaigned with respect to his candidacy for Local Union office. Mr. Silverman contends that Mr. Veltry obtained this work site address when he inspected the collective bargaining agreements covering Local 810 members pursuant to Article VIII, § 1 of the *Rules* as the representative of nominated International Union Vice President candidate Gene Giacumbo, a member of the Ron Carey Slate. Utilizing the information obtained as representative of a nominated International officer candidate to further his Local Union candidacy constitutes, according to Mr. Silverman, a violation of Article VIII, § 1(d) of the *Rules* by Mr. Veltry.

Mr. Veltry is a politically active member of Local 810. He was a candidate for delegate to the 1991 IBT International Union Convention, running in opposition to a slate of candidates headed by the incumbent Local Union officers. Based on the protest filed by Steven Silverman, the Independent Administrator held that Mr. Veltry and the other members of his slate were ineligible to seek delegate or alternate delegate positions. Thus while a candidate, Mr. Veltry was unable to compete in the delegate election.

Mr. Veltry, however, remained and remains an active participant in the International Union election process, supporting General President candidate Ron Carey and the other members of the Ron Carey Slate. None of the Local Union officers of Local 810 share Mr. Veltry's political position with respect to the 1991 International Union officer election. Some members of the Local's executive board have publicly declared their support for the candidates on the Shea-Ligurotis Action Team.

Dennis M. Silverman  
November 4, 1991  
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Mr. Veltry is also seeking election to Local Union office in Local 810. He is seeking the position of Secretary-Treasurer, running against the incumbent Secretary-Treasurer, Steve Silverman.

On June 14, 1991, Mr. Veltry inspected collective bargaining agreements covering the members of Local 810 in connection with his candidacy for Local Union office. His right to so inspect derives from Section 104 of the Labor Management Reporting and Disclosure Act ("LMRDA"). See Colpo v. Teamsters Local Union 326, 107 LRRM 2343 (D. Del., 1981). Although the LMRDA would appear to require that he be permitted to take notes during the time of such inspection, see e.g. Local 1419, ILA v. Smith, 301 F. 2d 791 (5th Cir., 1962). Mr. Veltry was not allowed to do so. However, during the four hours he spent at Local 810 inspecting the collective bargaining agreements, he went to the bathroom on several occasions and made notes there of names of employers whose identity he had gleaned from his inspection. Although all employer addresses and specifically all worksite addresses were not contained in the collective bargaining agreements--and Local Union 810 did not supply either employer addresses or worksite addresses not listed in the contracts--the worksite addresses for many employers whose members are represented by Local 810 may be obtained from public information such as telephone directories. Indeed, the address of the 28th Street store of the Sam Flax Art Supply Company is specifically listed in the 1991-92 Manhattan telephone directory.

Pursuant to Article VIII, § 1(a) of the *Rules*, Gene Giacumbo, a nominated candidate for IBT Vice President and a member of the Ron Carey Slate, sought to inspect and make notes from all collective bargaining agreements covering any member of Local 810; pursuant Article VIII, § 11 of the *Rules*, Mr. Giacumbo designated Mr. Veltry as his credentialed representative to undertake such inspection. As required by Article VIII, § 1 of the *Rules*, see Election Office Case No. P-341-LU710-CHI *et al*, affirmed 91-Elec. App.-73, Local 810 supplemented the scarcity of worksite addresses as found in the collective bargaining agreements by annotating the collective bargaining agreements with actual worksite addresses. Among the worksite addresses so provided was the address of the 28th Street store of Sam Flax Art Supply Company.

Mr. Veltry has visited the 28th Street store of Sam Flax Art Supply Company on three occasions, October 11, 17 and 28, 1991. On October 17, 1991, he was accompanied by another member of Local 810, Fred Cubero, also a candidate for Local Union office in Local 810. During the October 11 visit, Mr. Veltry, and on the October 17 visit both Messrs. Veltry and Cubero, talked to Local 810 members employed at this facility about both the Local Union officer election and the 1991 International Union officer election. The purpose of Mr. Veltry's third visit was to provide a member employed at the site with a copy of an insurance booklet which Mr. Veltry had earlier promised to give him.



Dennis M. Silverman  
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Jonathan Doyle, whose affidavit was submitted by Mr. Silverman in support of this protest, specifically affirms that Mr. Veltry discussed with him the 1991 International Union officer election on both October 11 and 17. Mr. Doyle specifically states that Veltry talked "briefly about the election and suggested that I support Carey." Mr. Doyle explains the absence of such information from the affidavit he signed in response to Local 810's request, and which was written for him by Local 810's staff, due to the fact that he spoke to Local 810's attorney, Sid Meyer, during work. Mr. Doyle explains that the conversation was hurried and he was not asked for nor did he give all details of Mr. Veltry's campaign visit to his worksite. That the affidavit supplied in support of this protest mentions only the October 17 visit, omitting completely the earlier October 11 visit, enhances the credibility of Mr. Doyle's statements to the Election Officer that the affidavit is incomplete and that Mr. Veltry in fact discussed both the International and Local Union visits to Mr. Doyle's worksite.

The Election Officer's investigation of this protest demonstrates that Mr. Veltry's knowledge regarding the 28th Street, Sam Flax Art Supply Company worksite was not necessarily obtained through his inspection of collective bargaining agreements undertaken as nominated Vice President candidate Giacumbo's representative. Mr. Veltry is entitled as a matter of federal law to inspect the collective bargaining agreements covering members of Local 810; he so inspected such agreements on that basis on June 14, 1991. The addresses of the various locations of Sam Flax Art Supply Company, that is, the worksites for Local 810 members employed by Sam Flax, is public information readily obtained from the Manhattan telephone directory.

Further, the Election Officer investigation discloses that Mr. Veltry did, in fact, discuss the 1991 International Union officer election when he visited the 28th Street store of Sam Flax Art Supply Company. That he may not have specifically mentioned Gene Giacumbo, the nominated candidate on whose behalf he inspected the collective bargaining contracts pursuant to Article VIII, § 1(a) of the *Rules*, is irrelevant; Mr. Giacumbo seeks office as a candidate on the Ron Carey Slate and Mr. Carey's candidate was discussed. See, e.g., Advisory on Membership List Distribution to Accredited Candidates, issued August 23, 1991.

No basis exists for claiming that Article VIII, § 1(d) of the *Rules* was violated, and the protest is DENIED.<sup>1</sup>


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<sup>1</sup> Under the circumstances of this case, the Election Officer was not required to decide, and thus has not decided, whether utilization of information obtained exclusively from the inspection of collective bargaining agreements or the receipt of worksite lists pursuant to Article VIII, §§ 1(a) or 1(c) of the *Rules* for a Local Union election or other intra-IBT Union issues violates the *Rules*.

Dennis M. Silverman  
November 4, 1991  
Page 4

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,

A handwritten signature in black ink, appearing to read "Michael H. Holland", written over the typed name below.

Michael H. Holland

MHH/mjv

cc: Frederick B. Lacey, Independent Administrator  
Amy Gladstein, Regional Coordinator