

OFFICE OF THE ELECTION OFFICER
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Michael H Holland
Election Officer

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March 1, 1991

VIA UPS OVERNIGHT

Kenneth C Laukhuff
President
IBT Local Union 771
1025 Duke Street
Lancaster, PA 17602

Jay W McKinney
Secretary-Treasurer
IBT Local Union 771
1025 Duke Street
Lancaster, PA 17602

John Cox
2344 Debra Ave
East Petersburg, PA 17520

Re: Election Office Case No. P-466-LU771-PHL

Gentlemen

On February 7, 1991, a pre-election protest was filed by Jay W. McKinney, Secretary-Treasurer of Local 771, and Kenneth C Laukhuff, President of Local 771. In their protest the complainants charge that Mr James Cox, a candidate for delegate from Local 771 to the 1991 IBT International Convention, engaged in certain conduct violative of the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("*Rules*")

The protesters allege that Mr Cox misused a notice from the Election Officer, issued and later revised, with respect to notifying members employed by UPS, of certain of their campaign rights under the *Rules* pursuant to an agreement reached by UPS and the Election Officer.

The terms of said notice merely paraphrases the provisions of the Advisory Regarding Political Rights. While the notice here in question reflected an agreement between UPS and the Election Officer, the notice by its terms is not so limited. When advised by the Election Officer of the circumstances under which the notice was promulgated, Mr Cox agreed that he would no longer distribute it. Under these circumstances, I find no violation of the *Rules*. It does not authorize access by an employee to the inside facilities of an employer other than the employee's employer.

It is also alleged that Mr Cox has created a disturbance in the union office and has threatened a union officer. An investigation has disclosed that on January 24 and 25, Mr Cox went to the Union office to complain about the posting of the list of nominated delegates and alternate delegates to the 1991 IBT International Convention. A somewhat profane and heated exchange transpired between Cox and McKinney. A suggestion was made that Cox was carrying a tape recorder. McKinney and Laukhuff stated their displeasure about Cox wearing a Marine Corp hat because, according to them, Cox had not served in the Marines while Laukhuff was a former Marine and McKinney a former paratrooper.

I do not find that this bickering between political antagonists rises to the status of a Rules violation.

It is also alleged that Cox demeaned McKinney by suggesting that his salary be reduced to approximately \$150 per week. The investigation disclosed that Cox admitted that, in the course of the argument discussed above, he stated that we should pay you \$1,300 per month and not \$1,300 a week. For the reason stated above, I do not find a violation but urge the parties to do their best to be more civil in the future.

Lastly, it is contended that Mr Cox counterfeited a typographical union printer's bug on his campaign literature and thereby committed a "federal offense." In the investigation, Cox insisted that the bug was legitimate.

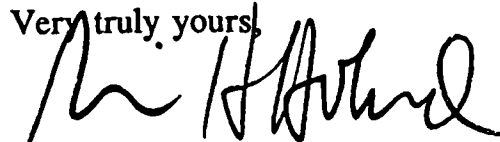
I do not have jurisdiction over this alleged type of "federal offense." Moreover, the fact that campaign literature contains false, irrelevant or even defamatory information does not remove it from the protection of the Election Rules. National Association of Letter Carriers v. Austin, 418 U S 264 (1974), Salzhandler v. Caputo, 316 F. 2d 445 (2d Cir. 1963). The policy encouraging robust political debate in the selection of delegates and International Officers of the IBT is reflected in the Election Rules' prohibition against censorship of campaign literature. See Article VIII, Section 6(g). Thus, this last part of the protest is **DENIED**.

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

Kenneth C Laukhuff
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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". The signature is fluid and cursive, with the first name "Michael" being more prominent than the last name "Holland".

Michael H Holland

MHH/mca

cc Frederick B Lacey, Independent Administrator
Peter V Marks, Sr , Regional Coordinator