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Michael H Holland
Election Officer

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February 22, 1991

VIA UPS OVERNIGHT

Robert T Lozanski
12827 W Meadowview La
Lockport, IL 60441

Daniel C Liguoris
Secretary-Treasurer
IBT Local Union 705
300 South Ashland Ave
Chicago, IL 60607

Frank Snow
300 South Ashland Ave
Chicago, IL 60607

Re: Election Office Case No. P-498-LU705-CHI

Gentlemen

Two pre-election protests were filed by Mr Robert Lozanski pursuant to the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("Rules") On February 18, 1991, the two protests were consolidated under Case No P-498-LU705-CHI, since each of the claims involved Mr Lozanski's allegations of intimidation by a Business Agent of Local 705, Frank Snow The investigation concerning threats allegedly made to Mr Lozanski from Frank Snow, Local 705 Business Agent has been concluded and the decision in that matter is set forth below The second claim which concerns allegations of surveillance by Local 705 employees at the UPS facility is currently being investigated by the Election Officer A decision in that matter will be issued shortly

The investigation conducted by the Election Officer disclosed the following facts

Mr Lozanski and Mr Snow are both running as IBT Convention delegates in Local 705 On February 7, 1991, Frank Snow, a Business Agent for Local 705, approached Mr Lozanski at the UPS facility in Bedford Park Mr Snow has served as a Business Agent at the Bedford Park UPS facility for the entire twenty-three years that Mr Lozanski has worked at the facility On that morning Mr Lozanski states that Mr Snow said to him, "I really can't believe after all I've done for you over the years that you're running against me in the election There's a lot to the Convention that you don't know about " Lozanski replied, "It's not my fault, you've kept it a secret from

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me for twenty-three years, but I'll call you from Orlando and tell you what it's about " Lozanski states that that was the end of the conversation The February 7, 1991 conversation was witnessed by another UPS employee, Richard Landis, who confirmed the substance of the conversation as described by Mr Lozanski.

On February 12, 1991, Mr. Snow and Mr. Lozanski again spoke at the UPS facility at about 6 00 a m when Lozanski was punching out at the timeclock. Lozanski states that Snow told him, "In regards to what we talked about last time, there's still time for you to withdraw. You have no business going to the Convention " Lozanski said he replied, "Come to think of it, you're right I'll send Holland a letter " No further words were exchanged between the two men.

Mr Snow admits speaking to Mr Lozanski and states that he told Mr. Lozanski that he could either stay or get off the ballot and that there was still time to withdraw. Snow also states that he was surprised that Lozanski was running against him because he had saved Lozanski from discharge on numerous occasions and that he expressed his disbelief to Lozanski during the conversation

Lozanski states that Mr Snow did not threaten him with violence, or suggest that he or the Local would retaliate against him for running In fact, both Mr Lozanski and Mr Landis, the other UPS employee who witnessed the February 7, 1991 conversation, stated to the Election Officer Investigation that they both took Snow's comments lightly and did not feel intimidated by them.

To support his claim that he was threatened, Lozanski referred to a 1967 incident he witnessed at the Local Union Hall which involved violence Lozanski states that he is generally aware of allegations of violence which have been made against Local 705 officials but that he has not been active in Union affairs prior to this delegate election and has never personally observed any threats, intimidation or violence

Lozanski also states that he is not aware of any violent incidents precipitated by Mr Snow and that Mr Snow has never threatened him Lozanski also states that none of the statements made by Snow caused him to alter his behavior in any way

The Election Officer concludes that the statements attributed to Mr Snow whether as admitted by him, or as stated in the exact phraseology alleged by Mr Lozanski, are within the type of robust "free speech" that frequently occurs in heated election campaigns The statements do not contain a threat -- either explicit or implied The evidence establishes that the two men have known each other for about twenty-three years and that Mr Snow was surprised and skeptical about Lozanski's interest in running as a delegate It is therefore not surprising that Snow would inquire about Lozanski's interest in the delegate election Mr Lozanski states that he did not feel intimidated by Mr Snow's comments and there is no evidence that Mr Snow indicated that either he or the Local would retaliate against Mr Lozanski for running for delegate

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Accordingly, since the investigation has revealed no evidence of threats, intimidation or violence, the above described protest is DENIED

I will retain jurisdiction of the second claim involving allegations that Mr Snow and Mr Durano, a Union steward at the UPS barn, engaged in surveillance of Mr. Lozanski and others in an attempt to coerce and intimidate them in violation of Article VIII of the *Rules*. A decision in that case will be issued as soon as the Election Officer's investigation is concluded

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/mca

cc Frederick B Lacey, Independent Administrator
Julie Hamos, Regional Coordinator

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March 6, 1991

VIA UPS OVERNIGHT

Robert T Lozanski
12827 W Meadowview La
Lockport, IL 60441

Daniel C Liguoris
Secretary-Treasurer
IBT Local Union 705
300 South Ashland Ave
Chicago, IL 60607

Frank Snow
300 South Ashland Ave
Chicago, IL 60607

Lou Durano
c/o IBT Local Union 705
300 South Ashland Ave
Chicago, IL 60607

Re: Election Office Case No. P-498-LU705-CHI
Part II

Gentlemen

A pre-election protest alleging two claims was filed by Mr Robert Lozanski pursuant to the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("*Rules*") On February 22, 1991, the Election Officer issued a decision resolving the first claim which involved the incidents of February 7 and February 12, 1991 The Election Officer retained jurisdiction of the second claim, which concerned events which were alleged to have occurred on February 15, 1991, pending the final outcome of the investigation of that event

In the second claim, Mr Lozanski alleged that Mr Frank Snow, a Business Agent from Local 705, and Mr Lou Durano, a Union steward from Local 705, engaged in surveillance of Mr Lozanski and others in an attempt to intimidate them in violation of Article VIII of the *Rules* The investigation conducted by the Election Officer disclosed the following facts

Mr Lozanski, Mr Snow and Mr Durano are all candidates for 1991 IBT International Convention delegates from Local 705 On February 15, 1991, Mr Ron Carey, candidate for International President, and John McCormick, delegate candidate and member of the "Membership Slate" from Local 705, were campaigning at the UPS

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facility in Bedford Park, Illinois Mr Carey and Mr McCormick were standing at the entrance to parking lot number 1, greeting UPS workers as they entered the main building Parking lot number 1 is a small lot that holds about fifty cars and is primarily used by UPS customers Mr. Lozanski stopped to talk to Mr. Carey and Mr McCormick at approximately 8 30 a m as he was leaving work after his shift.

After speaking briefly with Mr Carey and Mr McCormick, Mr Lozanski proceeded to walk in the direction of employee parking lot number 2, where his truck was parked As he began walking, Mr Lozanski claims that he observed Mr Frank Snow leaving the UPS facility through the main gate Mr Lozanski states that as he continued walking, he observed Mr Snow drive his vehicle into lot number 2 At this point, Mr Lozanski said he began to walk backwards towards his truck, keeping Mr Snow in view the entire time Mr Snow proceeded to drive down one lane and then up the next lane As Mr Lozanski climbed into his truck and started up the engine, Mr Snow exited the lot with his vehicle and then reentered the lot through a different entrance Mr Lozanski believes that Mr Snow was trying to obtain a better position so that he could write down Mr Lozanski's license plate Mr Lozanski did not observe Mr Snow writing down his license plate number and Mr Snow never spoke to Mr Lozanski about the incident, or the fact that Mr Lozanski spoke to Mr Carey As Mr Lozanski began to pull out of the lot, he observed Mr Snow drive his vehicle in the opposite direction, farther into the lot

Mr Lozanski also observed Mr Lou Durano, the Union steward, driving his vehicle in circles around lot number 2. Mr Lozanski believes that Mr. Durano was trying to see which employees stopped to talk with Mr Carey and Mr McCormick

In an interview conducted by the Election Officer representative, attorney Jonathan Rothstein, Mr Snow admitted being present at the facility and states that he went there to drop off dues checkoff cards He further stated that he observed Mr Carey and Mr McCormick campaigning in lot number 1, and that he saw Mr Lozanski stop and speak to the candidates briefly Mr Snow also stated that he observed Mr Lozanski get into his truck a few minutes later Mr Snow noted that he thought it was odd that Mr Lozanski had spent such little time talking to Carey and McCormick, considering that he was a Carey supporter and a candidate on the "Membership Slate " Mr Snow insists that he had no intention of intimidating Mr Lozanski and that he merely noticed Mr Lozanski's actions that morning as he was visiting the barn to drop off other materials

Mr Lou Durano was also interviewed by Mr Rothstein and stated that he also recalled seeing Mr Lozanski speak to Carey and McCormick on the date in question Mr Durano states that on the morning of February 15, 1991, he was delivering materials to another company a few blocks away, using the company tractor He stated that he made two trips to the client company and that when he returned to the facility after his second run, he attempted to park the tractor in Bay 1 When he could not get a space, he drove around the parking lots and eventually located a space in Bay 5 or 6 Mr Durano denies driving the tractor in the parking lots except to park it in the manner as described above

Article VIII, § 10 of the *Rules* provides that

All members retain the right to participate in campaign activities, including the right to run for office, to openly support or oppose any candidate, to aid or campaign for any candidate and to make personal campaign contributions

The *Rules* protect members exercising political rights from coercion or intimidation, for their exercising such rights See Election Office Case Nos P-008-LU732-NYC and Pollack v Local 732, 90 - Elec App - 8

Based on the facts submitted, I find that there is insufficient evidence to establish that either Mr Snow or Mr Durano engaged in surveillance in an attempt to coerce or intimidate Mr Lozanski in his exercise of his political rights The investigation disclosed that Mr Lozanski observed Mr Snow and Mr Durano in the parking lot area as he left work and that both individuals appeared to be driving around the two parking lots Mr Lozanski states that he observed Mr Snow driving around for a few minutes, and that Mr Snow remained in parking lot number 2 as Mr Lozanski drove out of the lot Mr Lozanski also stated that Mr Snow made no attempt to follow him or trail his truck in any way as he pulled out of his parking space and approached the exit

There is no allegation that Mr Snow or Mr Durano ever spoke to Mr Lozanski about the incident or made any threatening gestures or comments during the time that the three men were in the parking lot area Although the evidence establishes that Mr Snow noticed the fact that Mr Lozanski only spoke to Mr Carey and Mr McCormick briefly, that fact alone does not constitute surveillance Moreover, the entire incident lasted only a few moments and Mr Lozanski stated in his interview with Mr Rothstein that he was not in fact intimidated by the incident and that he has continued to vigorously campaign as a delegate candidate in Local 705 In fact, Mr Lozanski himself admits that he drove up close to Mr Snow so that Mr Snow could see his license plate if he wanted to

In conclusion, there is insufficient evidence to substantiate the claim that Mr Snow's and Mr Durano's conduct had a chilling effect on the rights of members to participate freely in campaign activities The facts as alleged do not constitute surveillance or an appearance of surveillance Accordingly, Mr Lozanski's protest is DENIED However, to insure that all members working at the UPS barn are aware of their right to engage in political activities without fear of coercion or intimidation, I am ordering that the attached notice be posted on all Local Union bulletin boards at the UPS facility in Bedford Park, Illinois, within forty-eight (48) hours of the receipt of this notice

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

Robert T Lozanski
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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/ads

cc Frederick B Lacey, Independent Administrator
Julie Hamos, Regional Coordinator

IN RE:	:	91 - Elec. App. - 97 (SA)
ROBERT T. LOZANSKI,	:	:
Complainant,	:	:
and	:	DECISION OF THE
FRANK SNOW,	:	INDEPENDENT
LOU DURANO,	:	ADMINISTRATOR
IBT LOCAL UNION NO. 705	:	:
Respondents.	:	:

This matter arises out of an appeal from a February 22, 1991, decision of the Election Officer in Case No. [REDACTED]. A hearing was held before me by way of telephone conference on March 13, 1991, at which the following persons were heard: Lisa Moss, an attorney on behalf of Local 705; John J. Sullivan, on behalf of the Election Officer; Julie Hamos, the Regional Coordinator; and Jonathan Rothstein, the Adjunct Regional Coordinator.

The underlying protest was filed by Robert Lozanski, a member of Local 705 and a candidate for delegate to the 1991 IBT International Convention on the "Membership Slate" supporting Ron Carey for International President. Mr. Lozanski claimed that on February 15, 1991, the Shop Steward of the Local attempted to intimidate Lozanski by "observing" him. According to Lozanski, the Shop Steward circulated by car in Mr. Lozanski's vicinity as he

left a speaking engagement with candidate Ron Carey. Following an investigation of the protest, the Election Officer did not find sufficient evidence on which to base an inference of surveillance, the appearance of surveillance, or intimidating tactics. Mr. Lozanski did not appeal the Election Officer's ruling.

The Election Officer, however, exercised his discretion to reaffirm to the members of Local 705 that they have the right to engage in political activities protected by the Rules For The IBT International Union Delegate And Officer Election (the "Election Rules") without fear of surveillance or intimidation. Thus, the Election Officer directed that a notice, a copy of which is attached hereto, be posted on all Local Union bulletin boards. The text of the notice does not indicate that either the Local Union or the employer of its members have violated the Election Rules, or even that the Local Union was charged with any violation.

The Local Union appeals from the Election Officer's ruling, challenging the posting of the notice. The Local Union argues that since the Election Officer found no merit to Mr. Lozanski's protest, no remedy should be ordered. By ordering the posting of the notice, the Local argues, there is an implication that it has somehow violated the Election Rules or committed some wrongdoing. The Local suggests that by ordering the posting of the notice, the Election Officer is, in effect, ordering the same remedy he would have imposed had he found merit to Mr. Lozanski's protest.

Article XI, Section 2. of the Election Rules provides, in pertinent part, as follows:

If as a result of any protest filed or any investigation undertaken by the Election Officer with or without a protest, the Election Officer determines that these Rules have been violated or that any other conduct has occurred which may prevent or has prevented a fair, honest and open election, the Election Officer may take whatever remedial action is appropriate.
[Emphasis supplied]


In this case, although the Election Officer did not find a violation of the Election Rules, he determined that as a result of the very filing of the allegations, an atmosphere was created at the Local which, if gone unchecked, may chill the rights of the rank-and-file to participate in the election process. Having made this finding, the Election Officer acted within his authority to order the posting of the notice. See also ¶ F.12.(d) of the March 14, 1989, Consent Order, which gives the Election Officer "the right to distribute materials about the election to the IBT membership."

The Local's challenge to the Election Officer's remedy carries no weight. First, it matters not what remedy the Election Officer may have imposed had he found merit to Mr. Lozanski's protest. It is worth noting, however, that had the Election Officer found merit to Mr. Lozanski's protest, he may have ordered a much more severe remedy such as the posting of a notice by the offending Shop Steward and Business Agent; or perhaps the mailing, at the personal expense of the Shop Steward and Business Agent, of a notice to every member of the Local.

In addition, nothing in the notice suggests that the Local has committed any wrongdoing. Nor does the notice implicate the Local in the protest. As a matter of fact, the notice does not even reference the underlying protest.

Moreover, it would seem that the Local would embrace an opportunity to support a notice by the Election Officer which merely guarantees the rights of the Local's membership.

For the reasons expressed herein, the Election Officer's ruling is affirmed in all respects.



Independent Administrator
Frederick B. Lacey
By: Stuart Alderoty, Designee


Dated: March 15, 1991.

IMPORTANT NOTICE TO ALL LOCAL 705 MEMBERS

All Local 705 members have the right to participate in Local 705's delegate and alternate delegate elections. This includes the right to openly support or oppose any delegate or alternate delegate candidate. This also includes the right to run for office, to aid or campaign on behalf of any delegate or alternate delegate candidate or slate of candidates and to personally contribute to the campaign.

All Local 705 members also have the right to participate in the IBT International Officer campaigns. This includes the right to openly support or oppose any candidates for International Office. This also includes the right to run for International Office, to aid or campaign on behalf of any candidate or slate of candidates, and to personally contribute to a candidate's campaign.

The *Rules for the IBT International Union Delegate and Officer Election* provide that all members have the right to engage in such political activities as described above free from intimidation or coercion. Any violation of a member's exercise of political rights will be remedied in accordance with Article XI of the *Rules*.



MICHAEL H. HOLLAND
Election Officer, IBT

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