



OFFICE OF THE ELECTION OFFICER  
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March 12, 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-553-LU771-PHL**

Gentlemen

Kenneth C Laukhuff and Jay W McKinney filed this pre-election protest pursuant to Article XI of the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("*Rules*") In their protest, complainants alleged that the Rank and File Slate mailed campaign literature to the entire membership of Local 771, which literature incorrectly informed the members that voting for 1991 IBT International Convention delegates and alternate delegates from Local 771 would take place at the Local Union Hall on March 7, 1991, the literature also stated that absentee ballots could be obtained by calling the Local Union The complainants sought, and received, permission from the Election Officer to mail a letter, at Local Union expense, informing the Local's members that the election was, in fact, a mail ballot election

Messrs Laukhuff and McKinney also state that Mr Cox, a nominated candidate for delegate to the 1991 IBT International Convention, obtained a membership list from Mr Ron Carey, an accredited candidate for IBT General President They allege that Mr Cox has programmed this list into his computer and will not erase or delete the information from his computer after the cessation or conclusion of the 1991 IBT International delegate and alternate delegate election, in violation of the *Rules* and the Advisory on Membership List Distribution to Accredited Candidates

The campaign literature mailed to the membership of Teamsters Local 771 by the Rank and File Slate did contain the statement that, "Voting will take place on March 7

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at the Local 771, 1025 North Duke Street, Lancaster, Pennsylvania, beginning at 1 00 p m " It also stated that absentee ballots were available and that Local Union members should call the Local for an absentee ballot

In fact, the procedure for the election of delegates to the 1991 IBT International Convention from Local 771 is by mail ballot voting No election was to be held at the Local Union hall

In response to this protest, Mr Cox submitted to the Election Officer a "palm card" he had distributed to members of the Local in connection with his campaign At the bottom of this card is that statement, "Mail your ballot back now." Mr Cox asserted that given this statement, the statements on the campaign flyer would not have confused the voters as to the method of the vote or, alternatively, the card cured any confusion

However, it is the finding of the Election Officer that the campaign card would not have cured the problem The campaign flyers were mailed to all Local members There is no showing that each member who received the flyer also received the campaign card Even if they had, there is no way to determine whether or not they would have remained confused by the contrary assertions as to the method of the vote contained in the two pieces of campaign literature

The Election Office does not censor or otherwise delve into the truth or falseness of campaign statements or assertions, including those made in campaign literature Here, however, the assertion of fact contained in the campaign flyer threatened to disenfranchise the voters by giving false information as to the proper method of voting For this reason, the protest is GRANTED and the Local has been permitted to mail to all its members, at Local Union expense, an explanatory letter <sup>1</sup>

Messrs Laukhuff and McKinney seek to withdraw, subject to their right to file a new protest at a later date, that portion of their protest relating to Mr Cox's acquisition and use of the Local's membership list They do not protest Mr Cox's acquisition and present use of the membership list Their concern is that Mr Cox will keep and continue to use the list after the conclusion of the 1991 IBT International Union Delegate and Officer election process At the present time, there is no way of

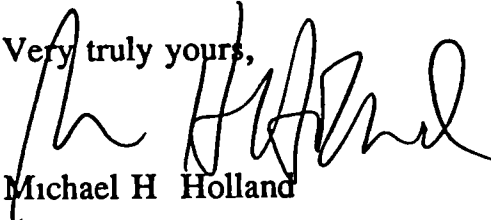
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<sup>1</sup>The mail ballots for Local 771 were counted on March 7, 1991 The protest and the letter the Local proposed to send to its members were submitted to the Election Officer on February 21, 1991 by facsimile transmission To promptly cure the potential harm as noted above, the Election Officer, after reviewing the protest, the flyer mailed by the Rank and File Slate and the Local's proposed letter, immediately notified the Local that it could mail such letter, even prior to the Election Officer's issuance of his formal decision

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ascertaining whether this will occur. Thus, the Election Officer will permit this portion of the protest to be withdrawn.<sup>2</sup>

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  
Peter V Marks, Sr, Regional Coordinator

Committee to Elect Ron Carey  
c/o Richard Gilberg, Esq  
330 West 42nd Street  
New York, NY 10036

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<sup>2</sup>The Election Officer notes for the benefit of all parties that the affidavit signed by all accredited International Union officer candidates as a prerequisite to their obtaining the membership list requires that such list be returned after the conclusion of the election process.