

OFFICE OF THE ELECTION OFFICER
% INTERNATIONAL BROTHERHOOD OF TEAMSTERS
25 Louisiana Avenue, NW
Washington, DC 20001

Michael H. Holland
Election Officer

(202) 624-8778
1-800-828-6496
Fax (202) 624-8792

August 16, 1991

VIA UPS OVERNIGHT

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

Daniel Ligurotis
Secretary-Treasurer
Teamsters Local 705
300 S. Ashland Ave.
Chicago, IL 60607

Dearborn Wholesale Grocery
2801 S. Western Avenue
Chicago, IL 60608

William D. Joyce
Secretary-Treasurer
Teamsters Local 710
4217 S. Halsted St.
Chicago, IL 60609

Robert T. Simpson, Jr.
President, IBT Local Union 743
300 South Ashland Avenue
Chicago, Illinois 60607

Re: Election Office Case No. P-849-LU705/710/743-CHI

Gentlemen:

A protest was filed pursuant to the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("*Rules*") by Archie Cook, a member of Local Union 705 on behalf of himself and Leroy Ellis, also a member of Local 705 and a nominated candidate for International Union Vice President from the Central Conference. The protest contends that Messrs. Cook and Ellis were prevented from engaging in campaign activities on the property of Dearborn Wholesale Grocery ("*Dearborn*") in violation of the *Rules*. The protest was investigated by Adjunct Coordinator Deborah Schaaf.

Archie J. Cook
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Both Messrs. Cook and Ellis are members of Local Union 705; Mr. Ellis is a nominated candidate for International Union Vice President from the Central Conference. Neither are employed by Dearborn. The IBT members employed by Dearborn are members of Local Union 743.

On July 29, 1991 Messrs. Cook and Ellis campaigned at Dearborn among the IBT members employed there. They engaged in such campaign activities on the private property of Dearborn for several hours. They were not asked to leave such property and no one disturbed them in their campaign activities. On the evening of August 4, 1991 they returned to the Dearborn facility. At that time they were asked to leave the property by both security and supervisory personnel employed by Dearborn.

Subsequent to the filing of this protest Dearborn Wholesale Groceries agreed that it would permit IBT members not employed by it to have access to its property for campaign purposes provided only that the members(s) wishing to engage in such activities notify Dearborn prior to the time they arrive at the facility. Dearborn has had recent theft problems at its facility. While the Election Officer normally finds advance notice to be appropriate, the prior problems encountered by Dearborn underscore the propriety of requiring advance notice before persons otherwise strangers to the company appear on its property.

The access to its property that Dearborn is willing to afford IBT members, including those not employed by it, is in accord with the *Rules* and particularly Article VIII, § 10(d) of the *Rules* and the Election Officer's prior application of the *Rules*. According to the protest is considered **RESOLVED**.

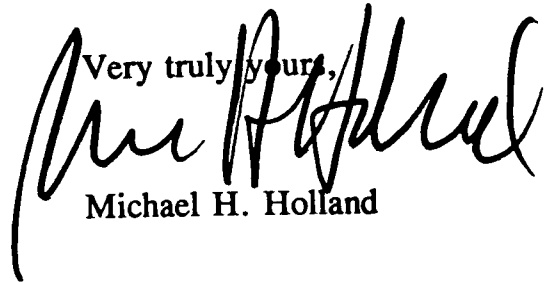
All IBT members, including IBT members not employed by Dearborn, shall be permitted access to Dearborn's property located at 2801 South Western, Chicago, Illinois 60608 for the purpose of engaging in campaign activities among the IBT members employed by Dearborn. Such members shall give prior notice of their intent to enter onto Dearborn's property for campaign purposes. Such notice shall be given, if possible, 24 hours prior to the time that access is requested but must be given at least four hours prior to the time that the members propose to commence campaign activity. Such notice shall be directed to Steve Edwards, Director of Operations or Tony Russotto, Director of Distributions, both located at Dearborn Wholesale Grocery at 2801 South Western, Chicago, Illinois - 60608, telephone: (312) 254-4300.

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

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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/cdk

cc: Frederick B. Lacey, Independent Administrator
Julie E. Hamos, Regional Coordinator

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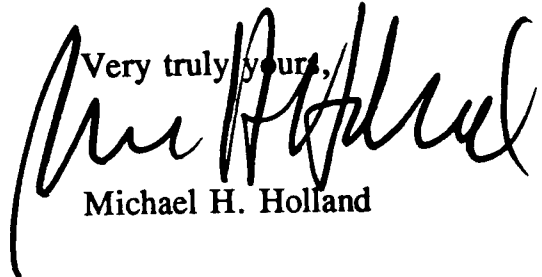
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Michael H. Holland

MHH/cdk

cc: Frederick B. Lacey, Independent Administrator
Julie E. Hamos, Regional Coordinator

IN RE:

ARCHIE J. COOK

and

DEARBORN WHOLESALE GROCERY

and

IBT.

91 - Elec. App. - 180 (SA)

DECISION OF THE
INDEPENDENT
ADMINISTRATOR

This matter arises out of an appeal from a decision of the Election Officer in Case No. P-849-LU705-CHI. A hearing was held before me by way of telephone conference at which the following persons were heard: the complainant, Archie Cook; John J. Sullivan, Esq., on behalf of the Election Officer; Julie Hamos, the Regional Coordinator; and Deborah Schaaf, an Adjunct Regional Coordinator.

Mr. Cook is a member of IBT Local 705. He claims that he and Leroy Ellis, a fellow member of Local 705 and a candidate for International Vice-President from the Central Conference, were prevented from campaigning among the IBT members employed by Dearborn Wholesale Grocery ("Dearborn") in Chicago, Illinois. Neither Cook nor Ellis are employed at Dearborn. Dearborn, however, employs other members of the IBT.

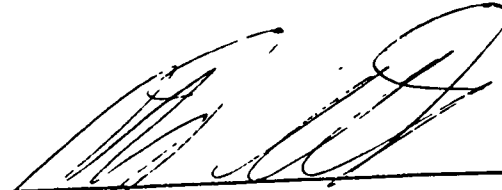
Dearborn is amenable to allowing non-employees such as Messrs. Cook and Ellis access to its employees on its property, provided that Dearborn has provided reasonable notice of the arrival of such non-employees on its premises. Dearborn's need for advance notice is motivated, at least in part, by its desire to combat a problem with theft from its parking lot that it had been experiencing. Dearborn is requesting 24-hours advance notice of the intended campaign activity when possible, and a minimum of four-hours notice at all times. Dearborn has provided the names and telephone numbers of two employer representatives who may be given advance notice of campaigning.

It is now settled that in determining what rights IBT members have to enter employer premises to campaign, a balancing test must be struck. See United States v. IBT, (In Re: 91 - Elec. App. - 43 (SA), slip op., 88 Civ. 4486 (DNE), (S.D.N.Y. April 3, 1991). Such a balancing test must take into consideration the IBT member's right to engage in campaign activity, the strength of the employer's property right, and the availability of a reasonable alternative means of communicating with IBT members employed at the work site. Here, given Dearborn's willingness to allow Messrs. Cook and Ellis access to its property, we need not address the issue of reasonable alternative means.

When weighing the right to campaign against the property interest of Dearborn in protecting its parking lot, the condition

of advance notice under these circumstances is reasonable and need not be disturbed.

Accordingly, the decision of the Election Officer is affirmed.



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

Dated: September 6, 1991