

OFFICE OF THE ELECTION OFFICER  
% INTERNATIONAL BROTHERHOOD OF TEAMSTERS  
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Washington, DC 20001

Michael H. Holland  
Election Officer

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September 26, 1991

**VIA UPS OVERNIGHT**

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

Leroy Ellis  
18807 Oakwood Drive  
Country Club Hills, IL 60477

William T. Hogan, Jr.  
Secretary-Treasurer  
IBT Local Union 714  
6815 West Roosevelt Road  
Berwyn, IL 60402

Marvin Sacks, Esq.  
Suite 804  
100 West Monroe Street,  
Chicago, IL 60603

**Re: Election Office Case No. P-920-LU714-CHI**

Gentlemen:

A protest was filed with the Election Office pursuant to Article XI of the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("Rules"). In his protest Archie J. Cook alleges that IBT Local Union 714 unreasonably delayed in responding to the request of Leroy Ellis, a nominated candidate for International Vice President from the Central Conference, for a list of worksites where members of Local Union 714 are employed. The Election Officer's investigation revealed the following.

Leroy Ellis is a nominated candidate for the office of International Vice President from the Central Conference. In an undated letter to William T. Hogan, the Secretary-Treasurer of Local Union 714, Mr. Ellis requested a list of all worksites where members of Local Union 714 are employed. Ellis cited Article VIII, Section 1 of the *Rules* in support of his request and stated, quoting the *Rules*, that the request was to be honored within five days.

Mr. Ellis' request was answered to by Marvin Sacks, counsel for the Local Union, by certified letter dated August 13, 1991. In his letter Mr. Sacks states that the Local Union was willing to provide the worksite list "for the sole and exclusive purpose

of campaigning by Leroy Ellis for Central Conference Vice President and not otherwise"<sup>1</sup> The letter has a space for Mr. Ellis' signature accepting the conditions stated in the letter. Mr. Sack's letter concludes stating that the list will be exchanged "for a copy of this letter upon which Leroy Ellis has acknowledged and accepted the conditions and terms on which the worksite list is to be delivered."

Mr. Ellis signed the acknowledgment, a copy of which was mailed, via certified mail, to Mr. Sacks. The copy of the Ellis acknowledgement was received by Mr. Sacks' office on September 3, 1991. Mr. Sacks alleges he was out of his office from August 31, 1991 until September 16, 1991. On September 16, 1991 Sacks responded to the receipt of the signed acknowledgment. In that letter Sacks stated that the sending of a copy of Mr. Ellis' acknowledgement, without a cover letter, was unacceptable and that the Local Union would not provide the requested worksite list until the conditions set forth in his August 13, 1991 letter were complied with.

Article VIII, Section 1 of the *Rules* requires Local Unions to permit candidates the right to inspect collective bargaining agreements covering the Local Union's members to permit candidates and their campaigns to determine where such members are employed. Under the *Rules*, the Local Union may satisfy this obligation by "providing, within the five day period set forth above, a list of all the sites with addresses where any and all of its members work." Article VIII, Section 1(c). Further, the Election Officer has held that a Local is obliged to provide the worksite list where review of the collective bargaining agreements will not yield the street addresses of all worksites where the Local's members are employed. Local Union 714 has elected to provide candidates with copies of the worksite list.

Without considering or determining the propriety of Local 714's conditioning the release of its worksite list upon the execution by Mr. Ellis of the acknowledgement drafted by the Local, the Election Officer finds that Local 714 unreasonably delayed delivery of its worksite list to Mr. Ellis. The Local failed to promptly and adequately respond to Mr. Ellis' request as required by the *Rules*, even after Mr. Ellis signed and submitted the requested acknowledgement, and assuming the Election Officer was to ignore the delay occasioned by Mr. Sacks' absence. The Local's argument that Mr. Ellis' acknowledgement was unacceptable because the document received from him was a copy of the original is unreasonable and constitutes interference with the rights of nominated International Union officer candidates under the *Rules*.

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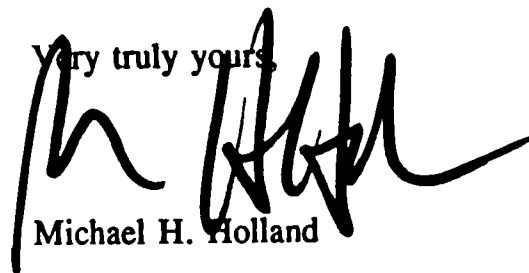
<sup>1</sup> This restriction on the use of the list, while not an issue in this protest, is consistent with the *Rules* provided that all parties understand that the list can be used on behalf of Mr. Ellis' campaigning as well as on behalf of the campaigns of his slate mates. In addition, the list can be used for campaigning not just by Mr. Ellis but for campaigning by his supporters and by the supporters of his slate.

Article VIII, § 1 of the *Rules* requires that requests for worksite information be answered within five days. Here, as of the present date, over ten days after Mr. Sacks admits personally seeing the requested acknowledgement signed by Mr. Ellis and over three weeks after the signed acknowledgement was submitted by Mr. Ellis, Local 714 has still not provided the requested worksite list.

In this case, however, the Election Officer notes that a portion of the delay was occasioned by Mr. Ellis' tardy submission of the Local's requested acknowledgement. Further, prior to the date this protest was filed, the Regional Coordinator -- after communication with Local Union 714 -- advised Mr. Ellis that he or his representative could obtain the list by going to Mr. Sach's office. Instead, Mr. Ellis filed this protest. Moreover, the International Union officer election will not occur until December 10, 1991; ballots will not be mailed for the election for approximately six weeks. The worksite list has now been provided. Mr. Ellis has adequate opportunity to campaign despite the delay in obtaining the worksite information. For these reasons, the Election Officer considers the matter resolved.

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  
Julie Hamos, Regional Coordinator