

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

October 23, 1991

VIA UPS OVERNIGHT

James J. Cox
2344 Debra Ave.
East Petersburg, PA 17520

Ken Laukhuff
President
IBT Local Union 771
1025 N. Duke St.
Lancaster, PA 17602

Jim Dickel
232 Silvermine Rd.
Conestoga, PA 17516

Re: Election Office Case No. P-962-LU771-PHL

Gentlemen:

A protest was filed pursuant to the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("Rules") by James Cox, a member of Local Union 771. In his protest, Mr. Cox alleges that Ken Laukhuff, President of Local 771, attempted to interfere with the rights of IBT members to campaign on behalf of Ron Carey.

This protest was investigated by Regional Coordinator Peter Marks and Adjunct Regional Coordinator William Hannan. Mr. Cox claims that on October 4th, 1991 an IBT member employed by Skyline Distributors, Jim Dickel, was advised by Ken Laukhuff that he could not post a notice at his worksite advertising a visit on that date by Ron Carey, candidate for General President of the IBT. Mr. Cox further stated that Mr. Dickel advised him that Mr. Laukhuff told Mr. Dickel that he could not pass out campaign literature supporting Ron Carey in the lunchroom or any other non-work area of Skyline Distributors. According to Mr. Cox, the notice regarding the Carey visit was posted at approximately 9:00 a.m. on October 4, 1991. Mr. Cox claims it was removed at approximately noon on the same day by Mr. Laukhuff. Mr. Cox concludes that Mr. Laukhuff intimidated Mr. Dickel in the exercise of his right to campaign due to Mr. Laukhuff's support of Walter Shea for General President of the IBT rather than Ron Carey.

Mr. Dickel states that on October 2, 1991, a notice was posted on the bulletin board at Skyline announcing an upcoming visit by Ron Carey on October 4, 1991. Mr. Dickel

states that this notice was removed at noon on October 4, 1991 by Ken Laukhuff. At that time Mr. Laukhuff told Mr. Dickel that political literature could not be posted on the bulletin board at Skyline because the bulletin board was for official company notices only.

Mr. Dickel states that on or about September 24, 1991, campaign literature was posted on this bulletin board for General President candidate Walter Shea. However, he agrees that such literature was removed the following day.

Mr. Dickel denies that he was told by Mr. Laukhuff that he could not distribute campaign literature in non-work areas or that he was intimidated by Mr. Laukhuff. In fact, Mr. Dickel states that Mr. Laukhuff told him that he could distribute campaign literature while on non-work time in non-work areas.

Mr. Dickel states that his protest is limited to the removal of the Carey flyer from the Skyline bulletin board. He disavows the remaining allegations contained in Mr. Cox's protest and the statement submitted by Mr. Cox in support of the protest.¹

Kenneth Laukhuff, President of Local Union 771, agrees that he informed Mr. Dickel that he could not post the notice referring to Ron Carey's visit. He also admits that he removed the notice from the bulletin board at Skyline. However, Mr. Laukhuff states that he did so, not because of his support or opposition to any International Union officer candidate, but to prevent any disciplinary action against Mr. Dickel for posting non-official materials on a bulletin board reserved for official notices. Mr. Laukhuff states that, to his knowledge, the bulletin board at Skyline has always been restricted to official Union or company postings. While Mr. Laukhuff admits that notices of non-company or Union events had been posted, he assumed that those postings were approved by Skyline.

¹ Mr. Dickel takes exception to the content of the protest filed by Mr. Cox as it relates to allegations of intimidation. He also contends that Mr. Cox posted a copy of the protest, including his name and phone number, on one or more bulletin boards, which resulted in his receiving numerous phone calls at home from Local Union members. Mr. Dickel believes that the allegation of intimidation has harmed his reputation in the Local. Although the Election Officer can understand the concerns raised by Mr. Dickel, it is inconsistent with the purpose of the *Rules* to penalize any person for filing a protest pursuant to the *Rules*. Further, under the *Rules*, the content of campaign literature is not subject to censorship. The Election Officer also notes that Mr. Dickel and Mr. Cox were able to express their views on this matter -- both with respect to the statements contained in the protest and the propriety of Mr. Cox posting the protest -- at a regular Union meeting.

Mr. Laukhuff denies telling Mr. Dickel that he could not pass out campaign literature. Rather, Mr. Laukhuff states that he advised Mr. Dickel that he could distribute campaign literature in the lunch room or other non-work areas during non-work time. Mr. Laukhuff also denies that he supports any particular candidate for International Union office or posted any campaign literature for International officer candidates.

Mr. Bailey, on behalf of Skyline, states that the collective bargaining agreement does not restrict usage of the bulletin board except by prohibiting the posting of obscene or slanderous materials. Mr. Bailey further stated that to the best of his understanding, the company has no objection to the posting of campaign literature on the bulletin board.²

The first issue to be addressed is whether the company/Union bulletin board located at Skyline may be used by members for the posting of campaign literature. In accordance with Article VIII, §10(d) of the *Rules* neither the Union nor the employer may restrict members' preexisting rights to post campaign materials on bulletin boards. In his Advisory Regarding Political Rights, issued December 28, 1990, ("Advisory"), the Election Officer stated that bulletin boards which have been used for purposes other than official company and Union postings, i.e. general purpose bulletin boards, could be used for the posting of campaign literature.

The bulletin board located at Skyline has been used for postings other than official company and Union business. Further, the company advises that it knows of no rule or policy restricting the posting of campaign literature on a bulleting board. Accordingly, the Election Officer determines that the bulletin board located at Skyline may be used for the posting of campaign literature.

Having determined that the bulletin board may be used for the posting of campaign literature the next issue is whether Mr. Laukhuff violated the *Rules* by (1) advising Mr. Dickel that campaign literature could not be posted on the bulletin board and (2) removing the campaign notice posted on that board. The Election Officer determines the removal of the notice was improper, given the finding that the bulletin board is a general purpose board. The Election Officer determines, however, that Mr. Laukhuff's actions were not meant to intimidate or coerce Mr. Dickel and that Mr. Dickel was neither intimidated or coerced. The Election Officer finds that Mr. Laukhuff advised Mr. Dickel that he could distribute the flyer in non-work areas of the plant. The Election Officer also notes that Mr. Laukhuff has urged the Election Officer to determine

² Although not an issue in this protest, Mr. Bailey did state that the company does not allow the distribution of literature in non-work areas due to the trash problem. The Election Officer notes that pursuant to the *Rules* and substantive federal law, the company may not restrict employees' rights to campaign -- including distributing campaign literature -- in non-work areas during non-work times.

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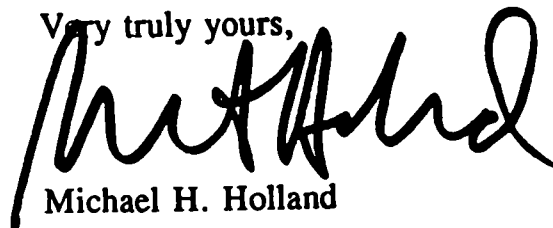
that the bulletin board at Skyline is a general purpose bulletin board on which campaign literature may be posted.

The notice which was removed concerned a visit by Mr. Carey which was to occur on October 4, 1991 at 2:45 p.m. The notice was posted from October 2, 1991 until noon on October 4, 1991; it is unlikely that the removal adversely impacted Mr. Carey's campaign.

To help insure that all IBT members employed at Skyline are aware that campaign literature may be posted on the bulletin board, the Election Officer directs that Local 771 post the attached notice on all bulletin boards at both the Local Union hall or offices and at Skyline. The notice shall be posted within three (3) days of the date of this decision. Local 771 shall submit an affidavit to the Election Officer within seven (7) days of the date of this decision demonstrating that the notice has been appropriately posted.

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/ca

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

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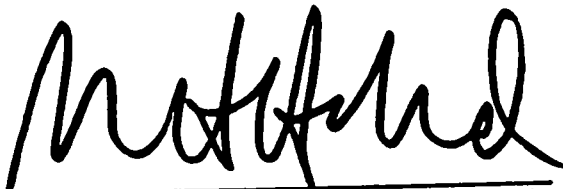
Skyline Distributors, Inc.
1905 Horseshoe Road
Lancaster, PA 17601

**NOTICE TO TEAMSTER MEMBERS
EMPLOYED BY SKYLINE DISTRIBUTORS, INC.**

All IBT members have the right to participate in campaign activities on behalf of candidates for International Office in the IBT.

All IBT members employed at Skyline Distributors, Inc. have the right to post campaign literature on the bulletin board at the facility.

It is a violation of your campaign rights for any candidate or any other person to cover up, remove, or deface such literature.



MICHAEL H. HOLLAND
Election Officer, IBT

This is an official notice and must remain posted until December 10, 1991 and must not be altered, defaced, or covered with any other material.