

OFFICE OF THE ELECTION OFFICER
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October 18, 1991

VIA UPS OVERNIGHT

John McCormick
6574 O'Hare
Portage, IN 46368

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

Leroy Ellis
18807 Oakwood Avenue
Country Club Hills, IL 60478

Re: Election Office Case No. P-970-LU714-CHI

Gentlemen:

A protest was filed pursuant to Article XI of the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("*Rules*") by John McCormick on behalf of Leroy Ellis, a candidate for International Union Vice President for the Central Conference on the Ron Carey Slate. Mr. McCormick's protest complains that several individuals who are employed by IBT Local 714 engaged in campaign activities on behalf of nominated International Union Vice President candidate William Hogan on Union time and with an automobile owned by Local 714.

Article X, § 1(b)(4) of the *Rules* provides that "[n]o member may campaign for . . . any other candidate during time that is paid for by the Union or by any employer." However, campaigning incidental to work or regular Union business or during paid vacation, paid lunch hours or breaks or similar paid time off is not violative of the campaign contribution rules. *Rules*, Article VIII, § 10(b). The Election Officer's Advisory on Campaign Contributions and Disclosure, August 14, 1991, further defines prohibited contributions to exclude volunteer time: ". . . an employee may perform personal services for a candidate or campaign after his/her normal working hours without the value of such services being considered a campaign contribution. However, if the employee utilizes an employer's office, office equipment, telephones, or the like in performing such services, a campaign contribution has been made by the entity contributing the utilization of its equipment or supplies." Advisory at page 7.

The investigation of this protest was conducted by Regional Coordinator Julie Hamos, Adjunct Regional Coordinator Deborah Schaaf and the Washington, D.C. office of the Election Officer. The investigation established the following facts:

1. Allegation of Campaigning by Employees of IBT Local 714 on Working Time

An employee of Local 714, Benny Quiroz, a business agent of Local 714, was present outside the United Parcel Service ("UPS") at 79th Street near Harlem Avenue on October 9, 1991. However, he was present for only a short time prior to 8:00 a.m. and for a short period after 4:45 p.m. His presence at these times was outside his scheduled work hours for Local 714. The other persons present outside the facility on October 9, 1991 were not shown to be employed as business agents or in any other capacity by Local 714. No evidence was adduced showing that any of them were compensated by Local 714 or any employer during the time they were engaged in campaign activities. Accordingly, there is no evidence establishing that any employees of IBT Local 714 devoted work time to campaign activities or that IBT compensated any of the individuals present at UPS for their campaigning.

2. Allegation of In-kind Contribution of Automobile

The automobile with license plate number "CHGO714" is an automobile registered to Local 714. The car is assigned by Local 714 to Mr. Quiroz. Mr. Quiroz, like all employees of Local 714 who are provided a Union owned automobile, is permitted by the Local to use the car for personal business. The value of his personal use of the Union owned automobile is reported as a form of additional income compensation for tax purposes. In a previous case, In Re Gregory/Spurgeon and IBT Local Union No. 135, affirmed 91-Elec. App.-135 (SA), the Independent Administrator considered a similar complaint involving the use of a Union car for personal business. The Independent Administrator affirmed the Election Officer's ruling that use of the car under such circumstances was not an improper contribution by a Union in violation of the *Rules*: ". . . [G]iven that the Local Union cars are used by the business agents for personal reasons, it is not a violation of the *Election Rules* for a business agent to use his car to travel to a worksite to campaign." *Id.* at page 4. Since the investigation has found that Mr. Quiroz was present at the facility during his non-working hours, use of Local 714's car cannot constitute an improper campaign contribution.

3. Conclusion

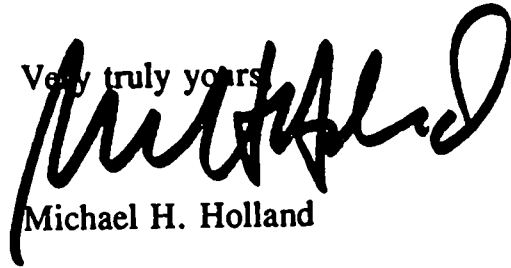
Accordingly, the protest is DENIED in its entirety.

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/mjv

cc: Frederick B. Lacey, Independent Administrator

Julie Hamos, Regional Coordinator

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