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October 28, 1991

VIA UPS OVERNIGHT

Archie J. Cook
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Carlo "Chuck" Spranzo
Secretary-Treasurer
IBT Local Union 726
300 South Ashland Avenue
Chicago, IL 60607

Gershon Mayer
5443 S. Ridgewood Court
Chicago, IL 60615

Re: Election Office Case No. P-991-LU726-CHI

Gentlemen:

Two protests were 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*"). The first protest, submitted by Gershon Mayer, concerned the Notice, on Local Union letterhead posted on Local Union bulletin boards, advertising a "Special Meeting" of the Local Union for the Shea-Liguorotis Slate. Mr. Mayer's protest was submitted to the Election Office prior to the meeting.¹ After the meeting was held a second protest was filed by Archie J. Cook on behalf of Leroy Ellis, a nominated candidate for International Vice President for the Central Conference of Teamsters. In that protest Mr. Cook alleged that the announcement of the meeting, the meeting itself and the distribution of campaign literature at the meeting were violative of the *Rules*. The Election Officer consolidated these protests and his investigation revealed the following.

¹ Counsel for Local Union 726 argues in his submission that Mr. Mayer's submission to the Election Office should not be acted upon because it was not "a clear and concise written statement of the alleged improper conduct" as required by Article XI of the *Rules*. The *Rules* do not require protest to take any particular form. Mr. Mayer's protest was in writing and contained sufficient information to put all parties on notice of the challenged conduct and as such satisfied the "notice pleading" requirement of the *Rules*. Moreover, the Article XI, § 2 of the *Rules* authorizes the Election Officer to initiate investigation and to impose remedies even in the absence of a protest.

Local Union 726 conducts its general membership meetings on the third Friday of each month. The meetings are advertised by a notice which is distributed to business agents and shop stewards and posted on all Local Union bulletin Boards. The usual notice is printed on Local Union letterhead, is unsigned and contains the time, date and place of the meeting. The Notice concludes with the statement "PLEASE ATTEND."

In contrast, the Notice advertising the October Local Union meeting stated the following (the emphasis is in the original):

Please be advised our Regular Meeting scheduled for Friday October 18, 1991 will be held in the Auditorium (Big Hall). Please note, the time change. Meeting will start at 7:00 P.M. rather than 8:00 P.M. This will be a "Special Meeting" for the Shea-Liguoris Slate. Please make every effort to attend this "Special Meeting."
Thank You.

The Notice was on Local Union letter head and was signed by Carlo "Chuck" Spranzo, the Secretary-Treasurer of the Local Union. This Notice was personally distributed by the Local's business agents to Local 726 members and also posted on all Local Union bulletin boards.

The meeting went forward as scheduled. Presentations were made by Daniel Liguoris, candidate for General Secretary Treasurer on the Shea-Liguoris Action Team slate; Vicki Saporta, a Vice President candidate on the slate; and by Gary Sullivan, who is also a Vice President candidate on the Shea-Liguoris Action Team slate. During the meeting Shea-Liguoris Action Team campaign literature was passed out.

After receipt of the Mayer protest, counsel for the Election Officer contacted counsel for the Shea-Liguoris Action Team by phone to inform him of the protest. This conversation took place during the afternoon of the day of the meeting. Perhaps in response to the protest, when the "Special Meeting" began at its scheduled starting time, 7:00 P.M., the President of Local Union 726 made an announcement that the regular membership meeting would begin at 8:00 P.M. and that a forum for the Shea-Liguoris Action Team would be held between 7:00 and 8:00 p.m. Members were informed that if they did not wish to hear the campaign presentations they could remain outside and would be called back in for the start of the regular Local Union membership meeting. At 8:00 p.m. the President of the Local Union closed the forum and asked all non-members of Local Union to leave the room. In addition, prior to the conclusion of the forum Mr. Liguoris gave Mr. Spranzo \$100 in cash to allegedly cover the costs of the hall rental and notices for the "forum."

The *Rules* require equal access, for campaign purposes, for all candidates to

meetings of Local Unions of which they are not a member. Article VIII, § 4(a)(2). The *Rules* further provide that if a Local Union allots time for campaigning it must give notice of this fact to all candidates prior to the meeting and must allocate time equally among all candidates who request the opportunity to participate. Article VIII, § 4(a)(3).

The *Rules* also provide that Local Union funds, facilities or resources may not be used for campaign purposes unless they are available to all candidates, all candidates are informed of their availability in advance and the Local Union is reimbursed by the candidate for their use. Article VIII, § 10 (c). The *Rules* state that the use of the Local Union's official stationery to promote the candidacy of any individual is "prohibited irrespective of compensation or access." Article X, § 1(a)(3).

The Local Union in the instant case violated the *Rules* in numerous respects. First, the Local Union violated the *Rules* by holding an International Union officer candidate campaign forum to which it invited candidates on only one slate. The Local Union violated the *Rules* by failing to give candidates on the other two slates notice of the forum and an opportunity to participate. Local 726 compounded these violations when it advertised the partisan Shea-Ligurotis campaign forum with a notice printed on official Local Union letterhead. Finally, the Local Union violated the *Rules* when it used Local Union business agents and Local Union bulletin boards for the distribution and posting of the notices, paying for the printing and duplication of the notices and its agents' time spent in distributing and posting the notice. The fact that the Shea-Ligurotis Action Team slate paid the Local Union \$100 for these resources and services after the fact does not cure the Local Union's failure to afford similar access to other candidates after adequate notice.

After the filing of the Mayer protest, and the conversation with counsel for the Election Officer, it appears that the Local Union attempted to transform the "Special Meeting" into a campaign "Forum" by holding, without prior announcement, a regular membership meeting at the conclusion of the Shea-Ligurotis campaign presentations. This was nothing more than a thinly veiled attempt to avoid liability under the *Rules*. The Local Union clearly intended to hold the "'Special Meeting' for the Shea-Ligurotis Slate" in lieu of its "Regular Meeting." This fact was advertised to the Local Union membership prior to the meeting. No matter what name the Local Union chooses to use, the meeting - at which the Shea-Ligurotis candidates spoke and at which their literature was distributed - that was advertised and held on October 18, 1991, was membership meeting subject to the requirements of Article VIII, § 4 of the *Rules*.

For the foregoing reasons the instant protests are GRANTED. The Election Officer hereby orders the following relief to remedy the violations of the *Rules* described above.

1. Local Union 726 shall cease and desist from providing any further union resources to any candidate without making such resources available to all candidates after

adequate notice. The Local Union shall cease and desist from using official Local Union letter head to further the candidacy of any candidate. The Local Union shall cease and desist from giving any candidate access to any membership meeting without affording similar access to all candidates after adequate notice.

2. In order to afford the Ron Carey Slate and R. V. Durham Unity Team a campaign opportunity equivalent to the one Local 726 afforded to the Shea-Ligurotis Action Team, the Local Union shall mail to its entire membership campaign material provided by the Carey and Durham campaigns.² For each of these two slates, the Local Union shall duplicate and mail by first class mail, on or before November 8, 1991, two pages of campaign material, 8.5" x 11", which may be printed on both sides of the page, but which may not include photographs. The Local Union shall mail the Carey and Durham materials in separate envelopes. The Local Union shall pay all costs of the mailing, including the costs of duplicating the material from camera ready originals provided by the respective campaigns. The Carey and Durham campaigns shall provide Local Union 726, with a copy to the Election Officer, with camera-ready original copy of the literature to be distributed on or before 12:00 noon, Chicago time, on November 4, 1991.

3. An appeal by any party shall not stay the effectiveness of this order. See, *Rules*, Article XI, § 2(z).

4. The Local Union shall file with the Election Office, no later than 12:00 noon, Washington, D.C. time, on November 12, 1991, a sworn affidavit detailing its compliance with this order. Attached to the affidavit should be a copy of the campaign material from both the Carey and Durham campaigns, as mailed to the Local Union 726 membership.

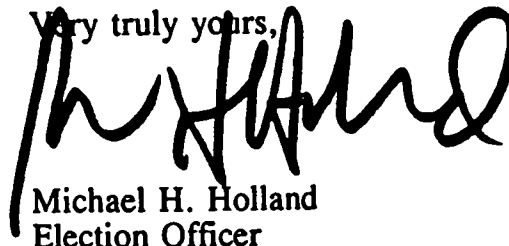
If any interested party is not satisfied with this determination, they may request a hearing before the Independent Administrator within twenty-four (24) hours of their receipt of this letter. The parties are reminded that, absent extraordinary circumstances, no party may rely upon evidence that was not presented to the Office of the Election Officer in any such appeal. Requests for a hearing shall be made in writing, and shall

² Since the Local's meetings are held on the third Friday of the month, its next regular meeting will be on November 15, 1991, after the ballots for the 1991 International Union officer election have been mailed. Holding a special meeting between today's date and the date the ballots will be mailed creates logistical problems, particularly since the schedules of the International candidates for this period have been previously set. Further, a special meeting on a date not previously set aside by Local members for Union meeting attendance and one which because of the time limitations cannot be extensively publicized is likely to attract but a small number of members. Under these circumstances, a mailing constitutes the only appropriate remedy available.

Archie J. Cook
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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
Election Officer

cc: Frederick B. Lacey, Independent Administrator

Julie Hamos, Regional Coordinator

Ron Carey
c/o Richard Gilberg, Esquire
Cohen, Weiss & Simon
330 West 42nd Street
New York, NY 10036-6901

R. V. Durham
c/o Hugh J. Beins, Esquire
Beins, Axelrod, Osborne
& Mooney
2033 K St., NW
Suite 300
Washington, D.C. 20006-1002

IN RE:

GERALD MOERLER

and

VONS COMPANIES, INC.

and

IBT LOCAL UNION NO. 63

91 - Elec. App. - 230 (SA)

DECISION OF THE
INDEPENDENT ADMINISTRATOR

This matter arises as an appeal from the Election Officer's decision in Case Nos. P-990-LU63-CLA, P-991-LU63-CLA, P-1015-LU63-CLA. A hearing was held before me by way of teleconference at which the following persons were heard: John J. Sullivan and Barbara Hillman for the Election Officer; Geraldine Leshin, a Regional Coordinator; Maurice Harrison for Vons Companies, Inc. ("Vons"); and Gerald Moerler, the Complainant. In addition, the Election Officer provided a written Summary in accordance with Article XI, Section 1.a.(7) of the Rules For The IBT International Union Delegate And Officer Election (the "Election Rules").


The three separate protests that are the subject matter of the instant appeal all concern the untimely posting, obstruction or removal of Mr. Moerler's campaign literature from the employee bulletin board of the Vons' facility in El Monte, California. At the time the Election Officer was processing these protests, Vons

had appealed the Election Officer's decision in Case No. P-882-LU63-CLA ("P-882") which involved the same issue, although in that matter the bulletin board was located at Vons' Santa Fe Springs facility. Finding a violation of the Election Rules, the Election Officer ordered Vons to distribute, on a one-time basis, Mr. Moerler's campaign material in the pay envelopes of the employees at the Santa Fe Springs facility.

At argument on Vons' appeal from the Election Officer's decision in P-882, the three protests that are the subject of this appeal were consolidated and included in the decision that I issued from the "bench." All of the parties, including Mr. Moerler, agreed that consolidation was proper given the identical issues presented. A written decision issued shortly thereafter. In Re: Moerler, 91 - Elec. App. - 222 (SA) (November 12, 1991). Given the consolidation of the three protests, I expanded the Election Officer's remedy and ordered Vons to distribute Mr. Moerler's campaign material to the employees at the El Monte facility on the same terms and conditions as the distribution ordered at the Santa Fe Springs facility.

Thus, all of the issues Mr. Moerler raises on this appeal have been previously adjudicated and remedied. Moreover, the Election Officer has ordered additional remedies, requiring Vons to pay for 400 copies of Mr. Moerler's campaign literature that Vons had allegedly misplaced. Accordingly, no further findings or orders are necessary.

For the foregoing reasons, the Election Officer's disposition of this protest is affirmed.



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

Dated: November 21, 1991