

OFFICE OF THE ELECTION OFFICER  
% INTERNATIONAL BROTHERHOOD OF TEAMSTERS  
25 Louisiana Avenue, NW  
Washington, DC 20001  
(202) 624-8778  
1 800 828-6496  
Fax (202) 624 8792

Michael H Holland  
Election Officer

Chicago Office  
% Cornfield and Feldman  
343 South Dearborn Street  
Chicago, IL 60604  
(312) 922-2800

March 12, 1991

**VIA UPS OVERNIGHT**

Leroy Ellis  
18807 Oakwood Ave.  
Country Club Hills, IL 60478

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

Frank Snow  
300 S Ashland Ave  
Chicago, IL 60607

**Re: Election Office Case No. P-515-LU705-CHI**

Gentlemen

A pre-election protest was timely filed pursuant to Article XI of the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("*Rules*") In his protest, Leroy Ellis alleges that the *Rules* have been violated because he has been threatened and offered inducements to withdraw his affiliation with the Membership Slate

The protest was investigated by Adjunct Coordinator Deborah Schaff The investigation shows the following: Leroy Ellis is a candidate for delegate to the IBT International Convention running as part of the Membership Slate. Frank Snow is a business agent for Local 705 Both Ellis and Snow were interviewed during the investigation

Ellis' version of the events that preceded his protest are as follows. On February 14, 1991 around and after 10 00 a m , he received two telephone calls from Snow The conversation in the first call initially centered on an altercation that took place at the Local 705 nomination meeting Snow told Ellis that he thought Ellis was being used because the other slate members wanted a token African American on the slate Ellis denied this, stating that he had organized the slate and had himself convinced others to run

Snow then said to Ellis, "Danny (referring to Daniel Ligurotis) wants you off the ticket " Ellis replied that he's not getting off the ticket Snow then said, "If you keep pushing like this you're going to run into some big guys with guns while you're out campaigning " Ellis asked if that was a threat Snow said, "You can take it how you

want it, you'll get the point if you stay in the race." Ellis replied that he didn't want to continue the conversation and hung up.

Around one (1) hour later, according to Ellis, Snow called again. Snow and Ellis discussed their differing views with respect to the method to be employed to obtain positions of authority and responsibility in Local 705. Snow said that Ellis was too impatient, that he did not want to wait his turn. Snow also stated that "Danny" (Daniel Ligurotis) wants to know, "What do you want? If you want a paid trip to Orlando, 'Danny' will take you." Snow also asked Ellis, "Do you want an organizer job?"

Ellis replied that he, Ellis, would be a fool to take that offer because he'd be fired as soon as the election was over. Snow said there were a total of six (6) people on the Membership Slate ticket that Danny wanted to drop off (withdraw), so McCormick, the slate head, would drop off. Snow said the Membership Slate could not win anyway because Ligurotis has so much money. He ended the conversation by saying Ellis would be a "dumb ass" to turn down his offer, and Ellis should think about it for a couple of days. Ellis said Snow called back the next day but he was out campaigning and did not return the call. Snow's version of these events is quite different from Ellis' version. Snow told the investigator that he saw Ellis leaving Teamster City around 1:30 p.m. on February 12, 1991. He said that Ellis said to him, "Bud, give me a call sometime." Snow thought Ellis wanted to talk to him about getting off the Membership Slate because of the fight at the nomination meeting.

Snow called Ellis on February 14, 1991, at around 10:00 a.m. He said Ellis asked him, "What did Danny say about me?" Snow understood that he was talking about the fight at the nomination meeting. Snow said he hadn't seen Mr. Ligurotis and went on to chastise Ellis about his behavior there. He said, "Leroy you've always been respected, why would you want to start a fight like that?" Ellis denied that he started anything. Snow asked him why he asked him to call. According to Snow, the following exchange then took place:

Snow            I thought you wanted my help getting off the slate

Ellis.            No, I'm going to run to see how many votes I could get.

Snow            Is there something you're looking for?

Ellis            I'm looking for a position with the Union

Snow            That will have to come from Mr. Ligurotis. Maybe you're too impatient. There's lots of guys around a lot longer than you.

Snow states they also discussed the fact that some members of the Membership Slate have something against Snow personally, and he wouldn't want Ellis to be used by those people. Snow said his relationship with Ellis is personal and he thinks Ellis is making a mistake running against the Ligurotis slate. Snow denies making any threat

Leroy Ellis  
Page 3

to Ellis, or making him the offer of an organizing job to get him off the slate. Snow admits that race was discussed, e.g., Ellis being the token black. Snow, like Ellis, is an African American.

The end of the conversation was casual, according to Snow. Ellis said he'd get back to him, and it was Snow's impression that Ellis was considering getting off the slate. Snow never called or heard from Ellis and never talked to anyone about the call.

Ellis states that he took Snow's remarks very seriously, but that he was not intimidated. He states further that he does not plan to change his affiliation with the Membership Slate, and he is actively pursuing his campaign.

The Election Officer views the offer of bribes or threats made against a candidate as most serious misconduct.

However, in this case, the candidacy of Mr. Ellis has not been affected by the conversations described in the protest. Ellis remains an active candidate, he acknowledges that he was not intimidated. Under these circumstances, the Election Officer need not resolve the sharp factual disputes presented by the testimony of Ellis and Snow. However, the Election Officer notes that both threats and bribery are prohibited by the *Rules*. If any candidate or potential candidate is coerced, changes position or is prevented from running or withdraws his candidacy based on such actions, severe sanctions would be warranted and imposed.

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/mca

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

---

 IN RE:

LEROY ELLIS,

Complainant,

and

FRANK SNOW

IBT LOCAL UNION NO. 705,

 Respondents.
 

---

91 - Elec. App. - 107 (SA)

 DECISION OF THE  
 INDEPENDENT ADMINISTRATOR

This matter arises out of an appeal from a March 12, 1991, decision by the Election Officer in Case No. P-515-LU705-CHI. A hearing was held before me by way of telephone conference on March 21, 1991, at which the following persons were heard: John J. Sullivan, on behalf of the Election Officer; Robert Walsh, on behalf of the Regional Coordinator Julie Hamos; Deborah Chaaf, the Adjunct Regional Coordinator; Sherman Carmel, on behalf of Local 705; and Leroy Ellis, the complainant.

Mr. Ellis, a candidate for delegate to the IBT Convention on the "Membership Slate," alleged that, during a telephone conversation with Frank Snow, Business Agent for Local 705, Frank Snow threatened him and offered him inducements to withdraw from the Membership Slate. Mr. Ellis further alleged that Frank Snow indicated that he was speaking for Daniel Ligurotis, Secretary-Treasurer of Local 705 and a candidate for International President.

Mr. Snow denies making any such threats or inducements to Mr. Ellis and claims that Mr. Ellis is distorting the general discussion they had concerning Mr. Ellis' candidacy. The Election

Officer characterized the two versions as "hotly disputed." The Election Officer further noted that: "It is, of course, exceedingly difficult to resolve the sharply different versions of the telephone discussion in the absence of any witnesses or corroborating evidence." The Election Officer further noted, however:

[T]hat if a conversation occurred as recounted by Mr. Ellis, there is no question that a violation of the Election Rules -- and misconduct of a most reprehensible nature -- was stated. As the Election Officer has warned previously, severe sanctions will be imposed if coercion is applied to any candidate or potential candidate.

The Election Officer determined, however, that he did not have to make "the ultimate credibility determination because the conversation did not have a coercive effect on Mr. Ellis. He continued his affiliation with the Membership Slate and his campaign activities." The Election Officer concluded that:

[B]ecause of the nature of the conflicting evidence and because no remedy was needed in this case to reverse the effects of the alleged conduct, no remedial measures were imposed.<sup>1</sup>

---

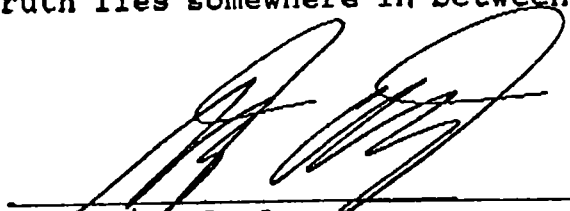
<sup>1</sup> The Election Officer also noted that to underscore his concerns that the Local 705 election process be conducted fairly and openly without threats and intimidation and in an atmosphere free of fear and coercion, he, on March 13, 1991, took the extraordinary step of notifying each member of Local Union 705 in writing, mailed to each member's home, that the Election Office "will not permit members of Local Union 705 to suffer retribution by any person or entity . . . for their participation in the delegate campaign . . . . The process will be conducted without threats or intimidation and in an atmosphere free of fear and coercion." The Election Officer further advised the members that, if necessary, he had enlisted the help of the United States Attorneys Office for the Southern District of New York and the Federal Bureau of Investigation for investigations of protests emanating from Local 705.

Given that the Election Officer himself recognizes that if he credits Mr. Ellis' version of events, a violation of the Election Rules would have occurred "and misconduct of a most reprehensible nature" would have been established, it follows that the Election Officer must make the "ultimate credibility determination." It matters not that Mr. Ellis was not swayed by the threats and coercion. In other words, the violation of the Election Rules and the reprehensible conduct exist independent of the effect the alleged threats and coercion may have had on Mr. Ellis. In fact, it would seem that such threats and coercion are more likely to be reported when they do not have their intended impact. If a candidate is threatened and succumbs to the threats, it is less likely that he would have the courage to come forth and report the incident.

Accordingly, the matter is remanded for the Election Officer to make a credibility determination between Mr. Ellis' version of events and Mr. Snow's version of events. In remanding this matter, I recognize that the Election Officer's task is not an easy one given that there are no third party witnesses and no corroborating evidence. To the extent not already done, personal interviews should be conducted of Mr. Ellis and Mr. Snow so that their demeanor may be observed. In addition, if either Mr. Ellis or Mr. Snow refuses to submit to a personal interview, the Election Officer should consider that fact as raising a natural inference that the party refusing the interview fears that his statements

would be unfavorable to him. Moreover, the Election Officer should take particular note of the consistency and plausibility of the respective versions of Messrs. Ellis and Snow. Of course, the Election Officer may also look to the character and reputation of Messrs. Ellis and Snow in determining credibility. Still further, the Election Officer may rely upon the respective interests Messrs. Ellis and Snow have in the outcome of the Election Officer's determination.

Of course, the Election Officer should not interpret this remand as a directive that he credit either the Ellis version in full or the Snow version in full. The Election Officer may, after thorough investigation, decide that neither Ellis' version nor Snow's version is accurate and the truth lies somewhere in between.



---

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

Dated: March 25, 1991



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

July 23, 1991

**VIA UPS OVERNIGHT**

Leroy Ellis  
18807 Oakwood Ave  
Country Club Hills, Il 60478

Frank Snow  
300 S Ashland  
Chicago, Il 60607

Daniel Ligurotis  
Secretary-Treasurer  
IBT Local Union 705  
300 S Ashland Ave  
Chicago, Il 60607

**Re: Election Office Case No. P-515-LU705-CHI**

Gentlemen

The above referenced protest was remanded by the Independent Administrator to the Election Officer in order to make a credibility determination regarding the testimony of Leroy Ellis and Frank Snow concerning the content of two telephone conversations between Messrs Ellis and Snow that occurred on February 14, 1991. As part of his supplemental investigation of this protest the Election Officer took the sworn depositions of Messrs Snow and Ellis. Based upon those depositions, and the prior investigation of this protest, the Election Officer concludes as follows:

Leroy Ellis was a candidate for delegate to the IBT International Convention from Local Union 705 running on the "Membership Slate". Frank Snow is a business agent employed by Local Union 705 and was a member and supporter of the "Ligurotis Slate" of candidates for delegate and alternate delegate. At issue in this protest are telephone conversations that allegedly took place between Ellis and Snow on February 14, 1991 involving alleged threats and inducements purportedly communicated by Snow to Ellis in an effort to compel Ellis to withdraw from the "Membership Slate". For the reasons stated below the Election Officer credits the version of these events advanced by Mr. Ellis.

Mr. Ellis testified that Mr. Snow's phone calls to his home on February 14, 1991 were unsolicited. Mr. Snow testified that his call to Ellis at his home was in response to Mr. Ellis' request which was communicated on the afternoon of February 12, 1991. Snow stated that Ellis asked him to call when he was entering the Local Union hall with several other individuals. The Election Officer does not credit Snow's testimony on this point because it seems improbable that Ellis would solicit a call from Snow, a member and known supporter of the Ligurotis Slate, in front of fellow members of the

Membership Slate This is particularly true given the highly charged campaign and the fact that only a few days before Ellis was involved in an altercation with Ligurotis Slate supporters at the Local Union nominations meeting

The Election Officer concludes that Snow called Ellis in an attempt to get Ellis to withdraw from the Membership Slate This conclusion is based, in part, on the fact that Snow's call to Ellis, coming soon after Ellis was nominated, was unsolicited Snow had no other justification for calling Ellis They were not personal friends, he was not calling on union business and he had never called Ellis at his home before <sup>1</sup>

Snow's testimony that Ellis asked him about how he could withdraw from the slate is not credited Ellis was one of the leaders of the Membership Slate and has been in frequent contact with the Election Office on a number of election related matters If Ellis wanted information on how to withdraw from the Membership Slate it seems highly unlikely that he would seek advise from Mr Snow and not the Election Officer representatives

Finally, Ellis testified that Snow told him that he was to contact six members of the Membership Slate to try to get them to withdraw from the slate In P-498-LU705-CHI the Election Officer found that Snow, on February 12, 1991, approached another member of the Membership Slate, Robert T Lozanski, in an effort to get Lozanski to withdraw from the slate While the Election Officer concluded that this effort did not involve coercion or promises of benefits in violation of the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("*Rules*"), this prior conduct is consistent with Ellis' testimony and supports the Election Officer's conclusion regarding Snow's purpose in calling Ellis

Both Ellis and Snow agree that there was at least one telephone conversation between them on February 14 and that this conversation was initiated by Snow They disagree on the nature of the conversation and the fact that Snow initiated two conversations on that day Snow alleges that Ellis did most of the talking However, Snow's recollection of the exact nature of the conversation is vague Ellis' testimony concerning the conversations are more complete and internally consistent

Ellis describes Snow's tone in the first conversation as confrontational and threatening Ellis testified that Snow made comments such as "we have guys that can

---

<sup>1</sup> The fact that Snow had Ellis' home phone number is not inconsistent with this conclusion Mr Snow testified that Ellis gave him his phone number during a chance encounter several years ago Ellis denied ever giving Snow his number It seems highly unlikely that Snow would have retained Ellis' number for several years after a chance encounter and the Election Officer does not credit this testimony In the Election Officer's view it is more likely that Snow obtained Ellis' number from the records maintained by the Local Union

handle troublemakers" and "you are going to run into some bad guys"<sup>2</sup> While the Election Officer recognizes that such comments on their face do not constitute threats of physical violence, in a union with a history of violence and in a campaign that was itself marred by violence such statements could only be construed to communicate a threat

Ellis described Snow's tone in the second conversation as more conciliatory Snow told Ellis that Local Union 705 Secretary-Treasurer Daniel Liguoris wanted to know what he wanted, a trip to Florida or a union organizer's job with the Local Union Snow's posing the question in this manner clearly implied that a trip to Florida or a job with the union was available if Ellis withdrew from the slate In addition, by stating that Daniel Liguoris wanted to know what Ellis wanted, Snow created the impression that he was acting on behalf of Liguoris The Election Officer concludes that Snow had the apparent authority to offer these benefits on behalf of the Local Union and that such promises of benefit, in exchange for Ellis' withdrawal from the Membership Slate, are violative of the *Rules*

The Election Officer credits the testimony of Mr Ellis regarding the telephone conversations with Mr Snow that occurred on February 14, 1991 The Election Officer concludes on the basis of his investigation that the *Rules* were violated by Mr Snow as a result of the treats and inducements communicated to Mr Ellis in an effort to get Ellis to resign from the Membership Slate The Election Officer orders the following relief to remedy this violation of the *Rules*

1 Mr Frank Snow shall cease and desist from any further expression of treats or offers of benefits to any IBT member regarding that member's exercise of any right guaranteed by the *Rules*

2 Mr Frank Snow shall, within 15 days of the date of this decision, pay to the Election Officer the sum of \$700.00 to reimburse the Election Officer for a portion of the costs of the investigation of this protest and pay to Leroy Ellis the sum of \$300.00 to reimburse Mr Ellis for the costs he incurred in the filing and/or investigation of this protest

3 The Secretary-Treasurer of Local Union 705 shall have Mr Snow sign the attached Notice to Teamster Members and post on all Local Union bulletin boards copies of the signed Notice to Teamster Members The Secretary-Treasurer shall submit to the Election Officer, within 15 days of the date of this decision, an affidavit setting forth his

---

<sup>2</sup> In the Election Officer's initial investigation of this matter Ellis stated that Snow said that "[i]f you keep pushing like this you're going to run into some big guys with guns while you're out campaigning" This statement figured prominently in the Election Officer's March 12, 1991 determination However, in his deposition Ellis did not mention the comments regarding "big guys with guns" in his initial description of the conversation The Election Officer does not credit Ellis' statement regarding guns and believes that the statement was made by Ellis in order to impress upon the Election Officer the seriousness of the situation

Leroy Ellis  
Page 4

compliance with this decision

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

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

**NOTICE TO ALL IBT MEMBERS FROM  
FRANK SNOW,  
BUSINESS AGENT, LOCAL UNION 705**

Under the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("*Rules*"), you have the right to support and campaign on behalf of any candidate for International office in the IBT

You have the right to engage in such activities, and any other activities protected by the *Rules*, free from constraint, intimidation, or coercion from anyone, including members, employees, or officers of Local Union 705

The Election Officer has determined that I violated the *Rules* by attempting to intimidate and offer benefits to a Local Union 705 member, who was a candidate for delegate to the 1991 IBT International Convention on the Membership Slate, in an effort to get that member to withdraw his candidacy

The Election Officer has ordered that I pay \$1000 00 to compensate him and a Membership Slate candidate for the costs incurred because of my violation of the *Rules*

---

**FRANK SNOW**  
Business Agent  
IBT Local Union 705

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

September 27, 1991

**VIA UPS OVERNIGHT**

Leroy Ellis  
18807 Oakwood Ave  
Country Club Hills, IL 60478

Daniel Ligurotis  
Secretary-Treasurer  
IBT Local Union 705  
300 S Ashland Ave  
Chicago, IL 60607

Frank Snow  
300 S Ashland Ave  
Chicago, IL 60607

**Re: Election Office Case No. P-515-LU705-CHI  
(Compliance)**

Gentlemen

On July 23, 1991, the Election Officer determined that Frank Snow, a business agent for Local Union 705, had violated the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("Rules"). As part of his order remedying the violation, the Election Officer directed that Frank Snow sign a notice - as prepared in revised form by the Election Officer on July 30, 1991 - and that Local 705 post the notice on all Local Union bulletin boards on or before August 7, 1991. On August 8, 1991, Daniel C. Ligurotis, Secretary-Treasurer of Local 705, submitted an affidavit to the Regional Coordinator stating that Frank Snow had signed the notice, and that the signed notice had been duplicated, and on August 5 and 6, 1991 copies were distributed for posting on the bulletin boards at all worksites where Local Union 705 members are employed.

By letter dated August 15, 1991, Leroy Ellis, the original protestor, claimed that Local 705 had failed to comply with the Election Officer's determination of his protest, alleging the notice was not posted at all worksites. Mr. Ellis contends that the notice was posted at the Roadway terminal in Chicago Heights, Illinois but was not posted at the five satellite Roadway terminals within the jurisdiction of Local 705. Mr. Ellis also contends that he spoke with several other drivers from different companies and they advised him that no notice had been posted.

Deborah Schaaf, Adjunct Regional Coordinator, visited several worksites and did not find the notice posted. Sherman Carmell, counsel for Local 705, states that the business representatives from Local 705 have assured the Local that a notice was posted.

at each worksite where Local 705 members are employed

A review of the prior determination of the Election Officer and the notice prepared by the Election Officer reveals that neither the decision nor the notice prescribe the period during which the notice was to remain posted. Further, based on the available evidence, it is almost impossible to determine whether or not the postings were made and, if made, subsequently removed and, if removed, when.

In his prior decision in this matter, the Election Officer noted that the violation found was a serious violation and required an extensive remedy. It was for that reason that the Election Officer directed that the notice, once signed by Mr. Snow, be posted at all worksites where Local 705 members are employed. For the notice to remain posted for only a short period of time limits the number of Local 705 members who will become aware of the notice and its contents and obviates the purpose for which the Election Officer originally required the notice to be posted. Accordingly, in conformity with his initial decision in this matter, and to ensure that all Local 705 members are aware of the contents of the notice and the right of all Local 705 members to engage in campaign activities free from constraint, intimidation or coercion, the Election Officer directs that Local 705 repost copies of the previously signed notice on all Local Union bulletin boards at any and all worksites where Local 705 members are employed. The notice shall be posted on all such bulletin boards together with a letter on Local 705 stationery which letter shall state: "The following is an official notice and must remain posted through December 10, 1991 and must not be altered, defaced or covered by any other material." Local 705 shall also provide additional copies of the notice and letter to all its business representatives and instruct all such representatives that they are to monitor all worksite bulletin boards and replace and repost both the notice and letter if the originally posted documents are removed, altered or defaced. The notice and letter shall be posted or reposted on all Local Union bulletin boards no later than ten (10) days from the date of this letter. Local 705 shall submit to the Election Officer within fifteen (15) days of the date of this letter an affidavit demonstrating (1) that the notice and letter, as described above, have been posted or reposted on all Local 705 worksite bulletin boards and (2) that all Local Union business representatives have been instructed to monitor such bulletin boards and replace or repost such notice and letter should the notice and/or letter be removed, defaced or otherwise altered.

The Election Officer does not find that Mr. Snow failed to comply with his prior decision in this matter and thus orders no additional remedies against him. As noted above, the Election Officer is also unable to find that Local 705 failed to comply with his prior determination. However, given the purpose of the posting remedy previously ordered and the present lack of notices on worksite bulletin boards, the Election Officer is requiring that Local 705 repost, as more fully described above.

Leroy Ellis  
Page 3

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,

A handwritten signature in black ink, appearing to read "Michael H. Holland", written in a cursive style.

Michael H. Holland

MHH/mjv

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



IN RE:

LEROY ELLIS

and

FRANK SNOW

and

IBT LOCAL UNION NO. 705

91 - Elec. App. - 199 (SA)

DECISION OF THE  
INDEPENDENT ADMINISTRATOR

This matter arises as an appeal from the Election Officer's "compliance" decision in Case No. ~~P-515-LU705-CHI~~, A hearing was held before me by way of telephone conference at which the following persons were heard: Sherman Carmell on behalf of IBT Local Union 705; John Sullivan for the Election Officer; Julie E. Harnos, a Regional Coordinator; and Deborah Schaaf an Adjunct Regional Coordinator. The Election Officer also submitted a written summary in accordance with Article XI, Section 1.a(7) of Rules For the IBT International Union Delegate and Officer Election ("Election Rules").

Leroy Ellis, a member of Local Union 705 and a nominated candidate for IBT International Vice President, contends that the Local failed to post notices on Union bulletin boards as required by the Election Officer in a decision of July 23, 1991. In his July 23 decision the Election Officer found that a Local 705 business agent had violated the Election Rules by engaging in conduct that constituted, among other things, threats with regard

to Mr. Ellis' candidacy. As a remedy for this violation, the Election Officer directed the Local to post a notice affirming the right of IBT members to participate in the election without fear of "constraint, intimidation or coercion." The notice was to be posted on all Local Union bulletin boards. The Election Officer did not specify the period during which the notice was to remain posted. Ellis has now charged that the notice was not posted at several worksites.

Responding to Ellis' protest the Election Officer dispatched a representative to several Local 705 worksites. The Election Officer's representative confirmed that the notice was not posted at several of those worksites. However, the Election Officer was unable to determine whether the notice was posted at one time and subsequently removed. Thus, the Election Officer did not find that the Local or any member of the Local had failed to comply with directive regarding the posting of the notice. The Election Officer did, however, find that the notice had not been displayed long enough to afford all Local 705 members the opportunity to review it. Finding that the purpose of his original directive regarding the posting -- affirming the members' right to participate in the election process -- had not been fulfilled, the Election Officer ordered the Local to repost the notice and to ensure that the notice remained posted until the election was over.


It is important to note that the Election Officer has made no finding that the Local failed to comply with his original directive

or otherwise violated the Election Rules. The Election Officer's concern is to keep the notice posted throughout the election period. Given the content of the notice, it follows that it should remain posted through the end of the election. To secure this goal, the Election Officer has directed the Local to undertake the necessary reposting and monitoring procedures. What the Election Officer has asked is reasonable; the Local is in the best position to ensure that the notice is reposted and that it remains posted.

Under the Election Rules, the Election Officer is empowered to take such action even in the absence of a finding that the Election Rules have been violated. See Election Rules, Article XI, Section 2. Pursuant to his mandate under the Consent Order and consistent with the Election Rules, the Election Officer has broad authority to ensure fair, honest and open elections. See, Election Rules, Preamble and Article I. Moreover, I have previously affirmed the authority of the Election Officer to order a remedy without finding an underlying violation of the Rules. See In Re Lozanski, 91-Elec. App.-97 (SA) (March 15, 1991).

Here, the Election Officer found that the threatening behavior of a business agent seriously undermined the conduct of a fair, open and honest election. The Election Officer then found that the Local Union, which had done no wrong, was nevertheless in the best position to reaffirm the protections to which its members are entitled under the Election Rules. The Election Officer's conduct here is proper.

For the foregoing reasons, I affirm the decision of the  
Election Officer in all respects.



---

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

Dated: October 8, 1991