



OFFICE OF THE ELECTION OFFICER
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Michael H Holland
Election Officer

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March 22, 1991

VIA UPS OVERNIGHT

Thomas H Geoghegan
77 West Washington Street
Chicago, Illinois 60602-2985

Membership Slate
c/o Leroy Ellis
18807 Oakwood Avenue
Country Club Hills, Illinois 60477

Daniel Liguoritis
Secretary-Treasurer
IBT Local Union 705
300 South Ashland Avenue
Chicago, Illinois 60607

Re: Election Office Case No. P-558-LU705-CHI

Gentlemen

A protest was filed pursuant to Article XI, Section 1 of the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("*Rules*") The protest concerns the propriety of a lawsuit filed by Local Union 705 in the United States District Court for the Northern District of Illinois and styled, Truck Drivers, Oil Drivers, Filling Station and Platform Workers Union, Local No. 705, International Brotherhood of Teamsters, Chauffeurs, Warehousemen, and Helpers of America, plaintiff, v John McCormick, Leroy Ellis, Gerald Zero, Robert Persak, Ralph Thornton, Ben Alessia, Robert Inman and John Doe, Defendants, Case No 91C1070 (Judge Duff)

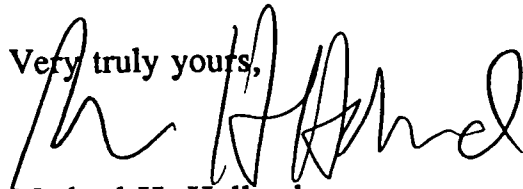
The United States District Court for the Southern District of New York has held, pursuant to the All Writs Act, that all litigation implicating the 1991 IBT International Union delegate and officer election lay exclusively within the jurisdiction of such court and was to be filed, if at all, in the United States District Court for the Southern District of New York, Judge David N Edelstein presiding, United States v. International Brotherhood of Teamsters, 728 F Supp 1032 (S D N Y 1990) That decision was affirmed by the United States Court of Appeals for the Second Circuit 907 F 2d 277 (2nd Cir 1990)

The allegations of the complaint which is the subject of this protest demonstrate that the lawsuit concerns events allegedly occurring at the nominations meeting for Local Union 705, the meeting held to nominate 1991 IBT International Convention delegate and alternate delegate candidates from Local Union 705 Thus the lawsuit implicates the IBT

Thomas Geoghegan
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International Union delegate and officer election process, as described in the consent order of March 14, 1989 and the *Rules*, as approved by the United States District Court for the Southern District of New York on July 10, 1990. The filing of a lawsuit, such as the one at issue here, in a jurisdiction other than the United States District Court for the Southern District of New York, may constitute contempt of such court's All Writs Act decision, as affirmed by the United States Court of Appeals for the Second Circuit. Therefore, the Election Officer has referred this protest to the United States Attorney for the Southern District of New York, with the request that this matter be reviewed for a determination as to whether a motion for contempt should be pursued by him.

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/ads

cc Frederick B. Lacey, Independent Administrator
Julie E. Hamos, Regional Coordinator
Edward T. Ferguson, Assistant United States Attorney for the Southern District
of New York (with enclosed underlying protest and related materials)

IN RE:

THOMAS H. GEOGHEGAN, on
behalf of the MEMBERSHIP
SLATE,

and

DANE PASSO,
SHIRLY GROHOLSKI,

and

DANIEL LIGUROTIS,
IBT LOCAL UNION NO. 705,

91 - Elec. App. - 117 (SA)

DECISION OF THE
INDEPENDENT ADMINISTRATOR

This matter arises out of an appeal from two decisions of the Election Officer. The first is dated March 22, 1991, and was issued in Election Officer Case Nos. P-472-LU705-CHI and P-475-LU705-CHI. The second decision is also dated March 22, 1991, and was issued in Case No. P-558-LU705-CHI. These two matters were heard together given their common factual background.

A hearing was held before me by way of telephone conference on April 1, 1991, at which the following persons were heard: John J. Sullivan and Barbara Hillman, on behalf of the Election Officer; Jonathan Rothstein, an Adjunct Regional Coordinator; Thomas Geoghegan, Esq. on behalf of the Membership Slate; and Sherman Carmell, Esq. on behalf of the Local.

Dealing first with Case Nos. P-472-LU705-CHI and P-475-LU705-CHI; this matter involves cross-protests. One protest was filed on behalf of members of the Membership Slate against Local 705 and the

Liguorotis Team Slate. The second protest was filed by supporters of the Liguorotis Team Slate against Leroy Ellis and the Membership Slate. Mr. Ellis is a member of the Membership Slate and a complainant in the Membership Slate's protest against the Liguorotis Team Slate. Both of these protests concern a physical altercation that erupted at the February 7, 1991, Local 705 nominations meeting for delegates and alternate delegates to the 1991 IBT International Convention. Each protest alleges that the opposing Slate engaged in conduct which chilled the political rights of the other Slate.

Upon receiving the protests, the Election Officer requested and received the assistance of the United States Attorney for the Southern District of New York in the investigation of the protest. The U.S. Attorney's office, in turn, enlisted the assistance of the Federal Bureau of Investigation ("FBI"). Upon reviewing the investigative report of the FBI, the Election Officer determined that there was insubstantial evidence to support either protest. Both the Election Office and the U.S. Attorney's office concurred that the evidence was insufficient to lay a foundation for determining fault. As stated by the Election Officer in his Summary:

The issue is not credibility; rather the evidence was inadequate to support the allegations of either set of protesters.

The Membership Slate complained that the investigation conducted by the FBI was incomplete and inadequate. The Membership Slate also complained that the Election Officer failed to consider

the history of violence and intimidation at Local 705. Local 705, on the other hand, took issue with the Election Officer's ruling, arguing that the Election Officer cannot conclude that the altercation was not premeditated if the Election Officer is also going to acknowledge that he cannot conclude how the altercation began.

Dealing first with the Membership Slate's contention, it is clear that the Election Officer took extraordinary steps to investigate this protest. As noted, the Election Officer enlisted the aid of the U.S. Attorney, and the U.S. Attorney in turn enlisted the aid of the FBI. Certainly, the Department of Justice and the FBI, with their combined expertise, are capable of adequately investigating the fracas in question. I have every confidence that the investigation which was conducted was designed to elicit the relevant facts so that the Election Officer can make a proper determination.

In response to the argument that the Election Officer did not consider the history of the Local, I note that in light of Local 705's history, the Election Officer availed himself of the resources of the United States Attorney's Office and the FBI. This was an extraordinary step.

As for the concerns of the Local, I do not find it inconsistent that the Election Officer concluded that the altercation "occurred spontaneously" and also found that there was

insubstantial evidence to support either protest. In fact, the two conclusions complement each other.

Accordingly, the Election Officer's denial of both protests are affirmed. It must be emphasized, however, that despite my affirmance, I join with the Election Officer in strongly condemning such incidents.

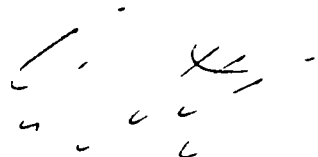
The second decision of the Election Officer, in Case No. P-558-LU705-CHI, involves a challenge by the Membership Slate to the filing of a lawsuit by Local 705 against the Membership Slate in the United States District Court for the Northern District of Illinois. In his March 22, 1991, decision, the Election Officer held that:

The allegations of the complaint, which is the subject of this protest, demonstrate that the lawsuit concerns events allegedly occurring at the nominations meeting for Local Union 705, the meeting held to nominate 1991 IBT International Convention delegate and alternate delegate candidates from Local Union 705. Thus, the lawsuit implicates the IBT International Union Delegate And Officer Election process, as described in the Consent Order of March 14, 1989, and the Rules, as approved by the United States District Court for the Southern District of New York on July 10, 1990. The filing of a lawsuit, such as the one at issue here, in a jurisdiction other than the United States District Court for the Southern District of New York, may constitute contempt of such Court's All Writs Act decision, as affirmed by the United States Court of Appeals for the Second Circuit. Therefore, the Election Officer has referred this protest to the United States Attorney for the Southern District of New York, with the request that this matter be reviewed for a determination as to whether a motion for contempt should be pursued by him.

The Local appealed the Election Officer's ruling arguing that the Election Officer's decision wrongfully intimates that the Local

violated the Consent Decree by filing the lawsuit in question. A plain reading of the Election Officer's decision does not suggest such an interpretation. The Election Officer clearly states that the lawsuit "may constitute contempt." No other conclusion is reached.

Accordingly, the Election Officer's treatment of this protest is affirmed.



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

Dated: April 3, 1991