

OFFICE OF THE ELECTION OFFICER
INTERNATIONAL BROTHERHOOD OF TEAMSTERS
25 Louisiana Avenue, NW
Washington, DC 20001

Michael H. Holland
Election Officer

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June 4, 1991

VIA UPS OVERNIGHT

John E. Frith
P.O. Box 155
Chunky, MS 39323

M.E. Wicker
President
IBT Local Union 891
2560 Valley St.
Jackson, MS 39204

Joe Mathews
236 Barbury La.
Jackson, MS 39212

E.J. Pickens
P.O. Box 147
Collinsville, MS 39325

Re: Election Office Case No. P-758-LU891-SEC

Gentlemen:

A protest was filed under Article XI of the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("*Rules*"). In his protest John Frith alleges that his participation in Local Union meetings has been restricted because he campaigned for delegate as a supporter of Ron Carey. He alleges further that E.T. Pickens, a Ron Carey supporter, has been denied access to a general purpose bulletin board located at the Roadway Express facility in Meridian, Mississippi in violation of the *Rules*.

The protest was investigated by Regional Coordinator Don Williams. The investigation discloses the following facts: Mr. Frith, who supported Ron Carey, was a losing candidate for delegate in the Local 891 delegate election. The winning slate of candidates was headed by M.E. Wicker, president of the Local, and James Jordy, Secretary-Treasurer of the Local.

On or about May 5, 1991, Frith attended a Local Union meeting for the purpose of offering a motion that the delegates to the Convention give a written report to the Local on issues that were voted on at the Convention. Frith states 400-500 members of the Local live in Meridian, Mississippi and he thought they should not have to travel to Jackson, Mississippi to hear news about the Convention. Frith offered the following motion. "The Delegates from Local 891 to the IBT Convention shall report back to the

membership how they voted on all issues brought up on the Convention floor. The report shall be in writing and posted throughout the jurisdiction of the Local.¹"

Frith states that when the motion was made Wicker, who chaired the meeting, appeared to become very angry and stated "Your motion is improper. You can't make a motion to require the executive board to do anything in writing." At that point Joe Mathews rose and seconded Frith's motion, and the meeting became volatile with other members stating their views of written reports in a heated manner. Frith's motion was ruled out of order. Frith states that Bob Jagger, campaign manager for the Wicker slate, moved to adjourn the meeting, and that motion was then accepted with no further discussion.

Wicker states that he did in fact refuse to accept the motion made by Frith because he did not think it was proper to require the delegates to submit a written report on how they voted, and further, there was no such requirement in the Constitution or By-laws. Wicker stated that he believed the motion would have been voted down had he accepted it.² Wicker states that he advised Frith that the Government was going to be present at the Convention and everything would be a matter of record. Further, he stated that the Local intended to take a poll of the membership in order to determine how they would vote. According to Wicker, when this information was provided by him, it triggered a loud exchange between Business Agent W.C. Smith and Joe Mathews. At that point Wicker ruled both Smith and Mathews out of order.

The Election Officer does not have jurisdiction over the conduct of internal Union meetings except those that relate to the IBT International Union delegate and officer election process. The Election Officer will, however, assert jurisdiction in those cases where Local Union rules or processes are applied in a manner that discriminates against IBT members because of their election-related activity.

A review of the minutes of the May 5, 1991 meeting shows that all motions properly made and seconded by the membership with the exception of Frith's were accepted by the chair. This evidence suggests that the delegate election contest may well have created hostilities between the parties that color the Local's decisions in other areas of Union business. Therefore, in order to clarify the rights of IBT members involved in the election process and to protect against any potential discrimination based on a member's election related activity, the Election Officer directs the Local to post the Notice attached to this decision on all Local Union bulletin boards. An affidavit indicating that such a notice has been posted shall be filed with the Election Officer no

¹The intent of the motion, according to Frith, was to require the delegates to reveal how they voted in the secret ballot election of International Trustees or the nomination of other International officers.

²Wicker acknowledges that the motion was properly made and seconded and his objections to it are related to the substance of the motion rather than the procedure used to advance the motion.

later than ten days after the date of this decision.

The investigation into Frith's allegation that E.T. Pickens was denied access to a Union bulletin board because of his support for Ron Carey, discloses the following facts. The bulletin board at issue is located in the drivers room at Roadway Express in Meridian, Mississippi. Roadway provides the bulletin board for the use of the Union pursuant to a clause in the collective bargaining agreement. The board is a locked plexiglass covered board.

Until recently only Union job stewards had a key to the lock. Pickens is not a job steward, but is a coordinator for the Local Union's flower fund. In the fall of 1990, Pickens requested a key to the board from assistant steward Bobby Hitt so that he could post changes in flower fund rules. All of the job stewards agreed that Pickens could have a key so long as he did not disturb other items on the board.

The investigation shows that, with one exception, the only items posted on the board, behind the glass, have been official Union notices. While information about the Local's flower fund has been posted on the board, the flower fund is sponsored by the Local; notices about it would constitute official Union notices. All material other than official Union notices, such as information about where flowers should be sent, thank you notes and the like are posted-by taping- to the plexiglass covering the bulletin board.

At some point during the campaign for delegates, Joe Thrasher, a Local Union steward, posted a 1986 photograph of IBT member Allen James and Secretary-Treasurer James Jordy shaking hands following a Jordy's successful representation of James in a discharge proceeding. Thrasher posted the picture and wrote on it "Vote for the Qualified Slate."

Subsequently Frith authored a note that was put on the board in response to the photograph of Jordy. Frith's note stated that "Jordy was only doing the job that he was paid to do." Frith's note was apparently put inside the bulletin board by means of Pickens' key since neither Thrasher nor the Assistant Steward permitted Frith to post, and Pickens had the only other key.

The photograph and Frith's note apparently remained posted until after the election was over, and the tally completed. At that time Thrasher had the lock changed and gave keys only to the assistant steward and Secretary-Treasurer Jordy. Pickens found out the lock was changed when he tried to use his key to post some financial statements about the flower fund.

The evidence shows that except for the one incident described above, where both contending delegate slates had campaign material posted on the bulletin board, only official Union notices, have been posted inside the board. Under these circumstances, the Election Officer concludes that the interior of the bulletin board has been used primarily for official Union business. The single exception that occurred during the election campaign is insufficient to convert the board to a general purpose board.

John E. Frith
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However, should the Union permit campaign posting inside the board during the duration of the election process, all candidates must be provided equal access to the board for the purpose of campaign postings.

The evidence shows that the outside glass of the board has been used for purposes other than official Union business. Therefore, election related campaign materials can also be posted on the outside glass. *Rules*, Article VIII § 10(d).

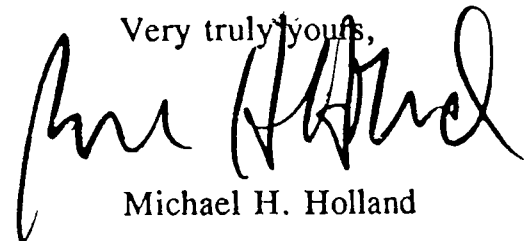
With respect to the allegation that the lock was changed and Pickens was denied a key because of his support for Carey, the evidence demonstrates that Pickens is the only flower fund coordinator who was not also a job steward. Further, the evidence shows that Pickens does not have to access a key to carry out his flower fund responsibilities. In fact, Pickens informed the Regional Coordinator that he can request the job steward to post flower fund rules; flower fund solicitation appeals have always been posted by the time clock. Since the interior of the board is used exclusively for Union business, it is proper to restrict the key to Union stewards.

Under these circumstances, the Election Officer finds that the Local's policy that permits only Union stewards to have keys to the lock of the bulletin board to be permissible under the *Rules*. However, if the Union stewards use the key to post campaign material for any candidate, they must permit equal access of all candidates to the interior of the bulletin board.

Based on the foregoing, this aspect of the protest is DENIED.

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

John E. Frith
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MHH/mjv

cc: Frederick B. Lacey, Independent Administrator
Donald H. Williams, Regional Coordinator

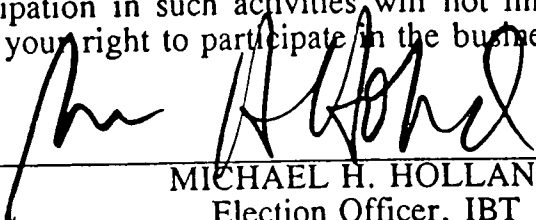
NOTICE TO TEAMSTER MEMBERS

FROM MICHAEL H. HOLLAND, ELECTION OFFICER, IBT

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

You have the right to engage in such activities without retaliation against you by the Union or any Union officer, business agent or employer.

Your participation in such activities will not impact upon your treatment as a Union member or your right to participate in the business and functions of the Union.



MICHAEL H. HOLLAND
Election Officer, IBT

This is an official notice and must remain posted for thirty consecutive days from the day of posting, and must not be altered, defaced, or covered by any other material.