

February 14, 1997

VIA UPS OVERNIGHT

Richard Hall
15217 W. 63rd Street
Shawnee, KS 66217

Phil Young, President
Teamsters Local Union 41
4501 Van Brunt Boulevard
Kansas City, MO 64130

Gilbert Aguirre, Trustee
Teamsters Local Union 41
4501 Van Brunt Boulevard
Kansas City, MO 64130

Re: Election Office Case No. P-1333-LU41-MOI

Gentlemen:

A pre-election protest was filed pursuant to Article XIV, Section 2(b) of the *Rules for the 1995-1996 IBT International Union Delegate and Officer Election* (“*Rules*”) by Richard Hall, a former-member of Local Union 41 and a supporter of General President Ron Carey. Mr. Hall alleges that on December 3, 1996, an unidentified person(s) vandalized his car and directed threatening notes towards him in retaliation for his support of Mr. Carey’s candidacy. Mr. Hall, while unable to identify the perpetrator, claims that the handwriting on the note resembles Al Hellebuyck’s, a Local Union 41 steward.

Mr. Hellebuyck denies writing the note or damaging Mr. Hall’s car. He states that he is unaware of who might be responsible for these acts.

Local Union 41 President Phil Young, who was a successful candidate for International vice president on the Jim Hoffa-No Dues Increase-25 & Out Slate, states that he spoke to Mr. Hellebuyck about these incidents subsequent to the filing of this protest. He was unaware of the incidents until the protest was filed. According to Mr. Young, Mr. Hellebuyck denied any knowledge as to who wrote the notes or vandalized Mr. Hall’s car. Further, Mr. Young states that

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the protester had a "bad relationship" with other Hyman employees, which pre-dates the IBT election, but that the election might have added fodder to fuel these feelings. Thus, he argues that the actions against Mr. Hall may be unrelated to the International officer election.

This protest was investigated by Adjunct Regional Coordinator William Eisler.

The underlying facts are not in dispute. Mr. Hall is employed by Hyman Freightways ("Hyman") in Kansas City, Missouri. He supported the candidacy of General President Ron Carey and openly solicited support on his behalf. The protester's son was a candidate for convention delegate on a Carey-aligned slate. The work atmosphere at Hyman during the campaign was tense, with the majority of the members expressing pro-Hoffa and anti-Carey sentiments.

On December 3, 1996, after his work shift had ended, Mr. Hall noticed a note ("note #1) in the driver's break room attached to a glass-enclosed bulletin board. Note #1 read, "Don't Jack With Me, Dick" and was hung next to a picture of James P. Hoffa. An additional note ("note #2") was attached to the protester's mail box and read, "Suck Dick You Fag." Shortly thereafter, Mr. Hall returned to Hyman's employee parking lot where he found that there was damage to his car's headlight and a scratch, which looks like a knife scratch, along the side of the vehicle. Mr. Hall reported the vandalism to the Kansas City police department.

Mr. Hall states that, previous to this incident, he had been warned by Gilbert Aguirre, a Local Union 41 trustee, that his support for Mr. Carey had inflamed other Hyman employees. He states that Mr. Aguirre repeatedly argued with him that Mr. Carey was a bad union president.

Mr. Aguirre states that while he is a Hoffa supporter, he had no involvement or knowledge of the note and for the vandalism incidents. He denies ever threatening or retaliating against Mr. Hall for his union activity.

Hyman Supervisor Bob Hall showed the investigator the breakroom in which note #1 was posted.¹ Three bulletin boards are located in the drivers' room. The bulletin board in question is glass-enclosed and secured by a small lock. According to Bob Hall, while only one Hyman employee has access to the bulletin board, the bulletin board is not very secure. He states that it is not unusual for employees to pick the locks with pen knives and small keys. Mr. Eisler's inspection of the bulletin board revealed that the top of the bulletin board was sprung and had been jimmied. Bob Hall states that the breakroom is open at all times to drivers from various depots when the terminal is open. He states that, in the past, the employee parking lot area has experienced crime problems, including vehicle theft.

¹Bob Hall is not related to the protester.

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Mr. Hellebuyck states that he learned about the notes and the vandalism to Mr. Hall's car before the protest was filed but after the incidents occurred. He states that he has no knowledge about these incidents and does not have a key to the bulletin board.

The investigation did not disclose who damaged Mr. Hall's car or wrote the notes.

Article VIII, Section 11(f) of the *Rules* provides:

Retaliation or threat of retaliation by the International Union, any subordinate body, any member of the IBT, any employer or other person or entity against a Union member, officer or employee for exercising any right guaranteed by this or any other Article of the *Rules* is prohibited.

Article VIII, Section 11(f) of the *Rules* is violated when members engage in physically or verbally aggressive behavior that threatens actual harm. Cecere, P-935-LU122-ENG (October 23, 1996) (driving car at campaigners and swerving before hitting them); Passo, P-469-LU705-CHI et seq. (February 29, 1996) (intentionally provoking physical confrontation), aff'd in relevant part, 96 - Elec. App. - 124 (KC) (March 13, 1996); Lopez, P-456-LU743-CHI (April 10, 1996) (saying "I'll kill you" where ongoing animosity existed between parties); Smith, P-600-LU150-CSF (April 30, 1996) (saying "you'll be taken out of here in a body bag"); Kelly, P-600-LU705-CHI et seq. (March 27, 1991) (aggressive threat to "kick their ass" made in menacing manner). In Clemerson, P-1263-LU783-SCE (November 25, 1996), the Election Officer found that the firing of gun at a campaigner's unattended vehicle is "antithetic to the *Rules* and the Consent Decree."

Here, the Election Officer finds that the timing of these incidents sufficiently connects the automobile vandalism and the notes to Mr. Hall's political activities. The evidence establishes that Mr. Hall is politically unpopular at Hyman. The physical proximity of note #1 to a picture of Mr. Hoffa, the appearance of note #2 on Mr. Hall's mail box and the timing of the vandalism establishes that some unidentified party attempted to intimidate Mr. Hall due to his support for Mr. Carey.

The Election Officer finds that the message conveyed in the notes accompanied by the concurrent physical damage to Mr. Hall's automobile sent an obvious and unacceptable message to the protester--that actual harm could ensue if the protester's political activities continued. Such violence "has absolutely no place in the conduct of fair, honest and open elections . . . Such conduct is chilling, violative of the *Rules* and cannot be condoned." Passo, supra.

Thus, the *Rules* were violated, and Mr. Hall's protest is GRANTED.

When the Election Officer determines that the *Rules* have been violated, she "may take whatever remedial action is appropriate." While the election is now over, members should be placed

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on notice that retaliatory actions motivated by the electoral preferences expressed during the campaign remains impermissible and subject to Election Officer jurisdiction. Therefore, the Election Officer orders the following:

Within 24 hours of receipt of this decision, Local Union 41 shall post the attached "Notice to Local Union 41 Members Employed at Hyman Freightways" on all local union bulletin boards located at Hyman Freight ways. The notice will remain posted for 30 days. Within two (2) days of the date of this decision, the local union shall file an affidavit with the Election Officer verifying compliance with this order.

An order of the Election Officer, unless otherwise stayed, takes immediate effect against a party found to be in violation of the *Rules*. In Re: Lopez, 96 - Elec. App. - 73 (KC) (February 13, 1996).

Any interested party not satisfied with this determination may request a hearing before the Election Appeals Master within one day of 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:

Kenneth Conboy, Esq.
Latham & Watkins
885 Third Avenue, Suite 1000
New York, NY 10022
Fax (212) 751-4864

Copies of the request for hearing must be served on the parties listed above as well as upon the Election Officer, 400 N. Capitol Street, Suite 855, Washington, DC 20001, Facsimile (202) 624-3525. A copy of the protest must accompany the request for a hearing.

Sincerely,

Barbara Zack Quindel
Election Officer

cc: Kenneth Conboy, Election Appeals Master
William Eisler, Adjunct Regional Coordinator

NOTICE TO ALL LOCAL UNION 41 MEMBERS EMPLOYED AT HYMAN FREIGHTWAYS

In a recent decision, the Election Officer found that an unidentified individual(s) attempted to intimidate a supporter of a candidate for International office by vandalizing their automobile and threatening physical harm. This is a serious violation of the *Election Rules* and will not be tolerated.

While the election is now over, members are still subject to the *Election Rules* prohibiting retaliation based on a member's election-related activity. The Election Officer will not permit or condone any threats, intimidation or harassment of any IBT member for his/her participation in the International officer election. The Election Officer will not hesitate to impose the most severe sanctions against any person engaging in such threatening, intimidating or harassing activities.

Date

Barbara Zack Quindel
Election Officer

This is an official notice which must remain posted for 30 days and must not be

defaced or altered in any manner or be covered with any other material.