

November 28, 1995

VIA UPS OVERNIGHT

Andres Soto
906-A East Service Avenue
West Coving, CA 91790

Kenneth Young
15760 Ventura Boulevard
Suite 1510
Encino, CA 91436

Randy Cammack, Secretary-Treasurer
Teamsters Local Union 63
379 W. Valley Boulevard
Rialto, CA 92376

James P. Hoffa
2593 Hounds Chase
Troy, MI 48098

Robert Molina, President
Teamsters Local Union 63
379 W. Valley Boulevard
Rialto, CA 92376

Re: Election Office Case No. P-222-LU63-CLA

Gentlemen:

This 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 Andres Soto, a delegate candidate and member of Local Union 63. The protester alleges that Local Union 63 Secretary-Treasurer Randy Cammack, President Robert Molina, and Attorney Kenneth Young retaliated against him and fellow Local Union 63 members Donna May, who is also a delegate candidate, and Robert Maenza for their support of James P. Hoffa, a candidate for general president. Mr. Soto also alleges that union resources were used to effect this retaliation.

Mr. Soto states that he, Mr. Maenza, and Ms. May have been active supporters of Mr. Hoffa for the past nine months. He contends that the above-named agents of Local Union 63 filed a baseless civil suit with the Superior Court of California in which Messrs. Soto and Maenza and Ms. May are named as defendants. This suit, Mr. Soto argues, was filed in order to retaliate against the three for campaigning for Mr. Hoffa and to thwart their future efforts on Mr. Hoffa's behalf. The protester contends that the charged parties are motivated by political animus because Messrs. Cammack and Molina are candidates for delegate in support of General President Ron Carey. In support of this contention, the protester refers to a conversation in which Mr. Maenza claimed that a local union trustee appointed by Mr. Cammack told him that the civil suit against him would be dropped if Mr. Maenza withdrew, in writing, his

support from Mr. Soto and Ms. May in their attempt to win local union office. Mr. Soto further alleges that Messrs. Cammack and Molina used Local Union 63 resources to file the allegedly retaliatory suit.

Messrs. Cammack and Molina respond that they were not aware that the Mr. Maenza, or Ms. May were involved in any campaign activities involving the delegate or International Officer elections. They also contend that they had no knowledge of Mr. Soto's intention to run for delegate but were aware of his efforts to support the Hoffa campaign because of his involvement in an earlier protest.¹ They insist that they would not interfere with a member's right to campaign. In addition, they contend that they are not and do not plan to be candidates for delegate and have no current plans to endorse the candidacy of any individual for International office. They further state that while they have worked with Mr. Carey in his capacity as International president, the leadership of Local Union 63 has publicly disagreed with Mr. Carey's policies in the past.

The protest was investigated by Regional Coordinator Dolly Gee.

The investigation disclosed that on October 30, 1995, Messrs. Cammack and Molina, through their counsel Mr. Young, filed suit in Superior Court of California in San Bernardino. The suit was filed against the protester, Mr. Maenza, and Ms. May. In the complaint (Case No. SCV 24873) the plaintiffs allege that the defendants slandered them by telling unnamed individuals that the plaintiffs had burned down Ms. May's house.

Conduct which is motivated by an alleged retaliatory purpose under the **Rules** is controlled by Article VIII, Section 11(f), which 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.

The **Rules** thus prohibit retaliation for engaging in election-related conduct protected by the **Rules**. In Re: Wsol, P-095-IBT-CHI (September 20, 1995), aff'd, 95 - Elec. App. - 17 (KC) (October 10, 1995). Alleged violations of this section are not sustainable, however, unless there is some evidence which connects, expressly or through reasonable implication, the protested conduct with a guaranteed right under the **Rules**. Giacumbo, P-100-IBT-PNJ

¹In Burrows, P-118-LU70-CLA (September 13, 1995), aff'd, 95 - Elec. App. - 16 (September 30, 1995), Debra Burrows alleged that Mr. Soto and two other individuals gained access to an employer work site under false pretenses to campaign for Mr. Hoffa.

(October 13, 1995). See also Robbins, et al., P-013-IBT-SCE, et seq. (June 30, 1995), aff'd, In Re: Murphy, 95 - Elec. App. - 3 (KC) (July 26, 1995).

Furthermore, the **Rules**, at Article XII, Section 1(b), prohibit employers and unions from making any "campaign contribution," which is defined as any contribution "where the purpose, object or foreseeable effect of that contribution is to influence, positively or negatively, the election of a candidate [for the 1996 International Convention delegate or alternate delegate of International Officer position]."

The protester failed to provide--and the investigation failed to disclose--any evidence that Messrs. Cammack and Molina filed their law suit in retaliation for past or contemplated political activities of the protester or his allies. The protester failed to provide evidence that the charged parties are candidates in opposition to himself or the other named defendants or that the charged parties are supporters of General President Ron Carey and thus likely to be disposed against Mr. Hoffa or his supporters.

The only evidence presented which might signify that the suit was filed for a retaliatory objective is the statement by Mr. Maenza that a local union trustee told him he would not be sued if he withdrew his support for Mr. Soto and Ms. May, who were then candidates for local union office. While such an offer, if made, may be evidence of retaliation for political activity in the local union officer election campaign, it would not support a claim of retaliation related to the delegate or International election.² The Election Officer's jurisdiction extends only to International officer and convention delegate elections.

For the foregoing reasons, the protest is DENIED.

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

²The Election Officer has found that the filing of this suit was not in retaliation for exercising any right related to the delegate and officer election. It is noted, however, that the protester also alleges that local union resources were used to file the suit, in violation of the **Rules**. The retainer agreement between Messrs. Cammack and Molina and Mr. Young, however, clearly indicates a contingency-fee agreement was established and that the clients themselves--not the local union--would pay costs and fees.

Andres Soto
November 28, 1995
Page 4

Copies of the request for hearing must be served on the parties listed above as well as upon the Election Officer, 400 North Capitol Street, Suite 855, Washington, D.C. 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
Dolly Gee, Regional Coordinator