

October 30, 1998

**VIA FIRST CLASS MAIL**

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Suite 200  
Farmington Hills, MI 48334

**Re: Election Office Case No. PR-302-LU710-NCE**

Gentlemen:

Ismael Vela, a member of Local Union 710, filed a pre-election protest pursuant to Article XIV, Section 2(b) of the ***Rules for the 1995-1996 IBT International Union Delegate and Officer Election*** ("***Rules***") against James Ignarski, also a member of Local Union 710. The protester alleges that Mr. Ignarski defaced and removed properly posted campaign literature supporting Tom Leedham, candidate for general president. Mr. Ignarski denies the charge.

The protest was investigated by Regional Coordinator Judith E. Kuhn.

The protester and Mr. Ignarski are employed by ANR-Advance Transportation Company ("ANR-Advance"). In support of his claim, the protester provided a sample of Mr. Leedham's campaign literature which has the word "liar" written over it in magic marker pen. Additionally, two witnesses state that they observed Mr. Ignarski in the act of defacing campaign literature. According to another witness, Mr. Ignarski's style is very well known around the ANR-Advance facility and is as distinctive as "the mark of Zorro." Finally, a witness states that he observed

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Mr. Ignarski pulling all of the Leedham flyers off the lunch room bulletin board and disposing of them in the trash. The protester estimates that Mr. Ignarski destroyed about 30 pieces of campaign literature, costing about four cents each.

In addition to his non-specific denial, Mr. Ignarski was generally evasive and engaged the Election Officer's representative in a discussion of unrelated questions, including whether or not he had a right to remove campaign literature from various types of private and public property. He also asked several questions about the Election Officer's power to impose a remedy.

Pursuant to the **Rules** at Article VIII, Section 11(a), all union members retain the right to distribute campaign literature. The removal or defacement of properly posted campaign literature is a serious violation of the **Rules**. See Amodio, P-1073-LU182/317-PGH (November 20, 1991); Teller, P-945-LU741-PNW (October 14, 1991); Fleeger, P-876-LU988-SOU (September 11, 1991); Blake, P-767-LU439-CSF (July 1, 1996).

Mr. Ignarski's statements and denials are not credible. Given the detail of the observations of the witnesses supporting the protest, Mr. Ignarski's blanket denial was insufficient and unpersuasive. Additionally, his manner was evasive and distracting of the issues.

Accordingly, the protest is GRANTED.

When the Election Officer determines that the **Rules** have been violated, he "may take whatever remedial action is appropriate." Article XIV, Section 4. In fashioning the appropriate remedy, the Election Officer views the nature and seriousness of the violation as well as its potential for interfering with the election process.

The Election Officer orders the following:

- (1) Mr. Ignarski shall immediately cease and desist from defacing or removing any and all campaign literature at the ANR-Advance facility or at any other location.
- (2) By November 15, 1998, Mr. Ignarski is ordered to reimburse the protester the amount of \$1.20, representing the approximate cost of the 30 copies of campaign literature which were removed or defaced.
- (3) Within one (1) day after this reimbursement, Mr. Ignarski shall file an affidavit with the Election Officer demonstrating 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).

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Any interested party not satisfied with this determination may request a hearing before the Election Appeals Master within one (1) 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, 444 North Capitol Street, NW, Suite 445, Washington, DC 20001, Facsimile (202) 624-3525. A copy of the protest must accompany the request for a hearing.

Sincerely,

Michael G. Cherkasky  
Election Officer

cc: Kenneth Conboy, Election Appeals Master  
Judith E. Kuhn, Regional Coordinator