

**OFFICE OF THE ELECTION ADMINISTRATOR
for the
INTERNATIONAL BROTHERHOOD OF TEAMSTERS**

IN RE: ROGER AGUIRRE,)	Protest Decision 2001 EAD 315
)	Issued: April 17, 2001
)	OEA Case No. PT032012WE
Protestor.)	
_____)	

Roger Aguirre, a member of Local 396, filed a post-election protest pursuant to Article XIII, Section 3(a) of the Rules for the 2000-2001 IBT International Union Delegate and Officer Election (“Rules”). He alleges irregularities in the March 1 and 2, 2001 ballot count in the local’s delegate election.

Election Administrator representative Dolores Hall investigated the protest.

Findings of Fact and Analysis

Aguirre protested the contradictory results of the ballot count. He alleges that 365 ballots were improperly disqualified or not counted. He relies upon the hearsay testimony of Percy Martinez, a member of Local 396, who makes this claim.

Local 396 retained the Honest Ballot Association (“HBA”) to assist in the conduct of its delegate election. HBA representative Jonathan Bilkis stated that, upon returning from the Post Office on March 1, he announced to those present that the Post Office had determined that there were 2,671 returned ballots. Bilkis states that the ballots were then counted three times to verify this, and that it was determined the Post Office was wrong, and that there were only 2,611 ballots.

Bilkis says he has no idea of the basis of Martinez’s claim that 365 ballots were disqualified. Bilkis explained that the count workers did segregate ballot envelopes that appeared suspect, and Bilkis says that he personally made the decision as to whether these ballots were void. He did not keep a tally of those envelopes, but rather handled them during the course of the operation.

According to Bilkis, there were 68 void ballots and 55 challenged ballots at the end of the ballot count on March 1. The margin between candidates was such that these challenged were determinative. Accordingly, on March 2, 2001, Election Administrator representative Dolly Gee resolved 53 of the challenged ballots, leaving three remaining challenged ballots unresolved as non-determinative. The certified ballot tally indicated 2,538 valid ballots counted, 68 void ballots and 3 unresolved challenged ballots, for a total of 2,609 total ballots cast.¹

¹ The two vote difference between the 2,609 ballots listed on the certified tally and the 2,611 ballots counted when the ballots were retrieved from the Post Office is not determinative,

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Based upon the foregoing, we find no irregularities in the ballot count, and DENY the protest.

Any interested party not satisfied with this determination may request a hearing before the Election Appeals Master within two (2) working days of receipt of this decision. The parties are reminded that, absent extraordinary circumstances, no party may rely upon evidence that was not presented to the Office of the Election Administrator in any such appeal. Requests for a hearing shall be made in writing, shall specify the basis for the appeal, and shall be served upon:

Kenneth Conboy
Election Appeals Master
Latham & Watkins
Suite 1000
885 Third Avenue
New York, New York 10022
Fax: 212-751-4864

Copies of the request for hearing must be served upon all other parties, as well as upon the Election Administrator for the International Brotherhood of Teamsters, 727 15th Street NW, Tenth Floor, Washington, DC 20005 (fax: 202-454-1501), all within the time prescribed above. A copy of the protest must accompany the request for hearing.

William A. Wertheimer, Jr.

William A. Wertheimer, Jr.
Election Administrator

cc: Kenneth Conboy
2001 EAD 315

given the spread between the lowest successful vote-getters and the highest unsuccessful vote-getters.

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