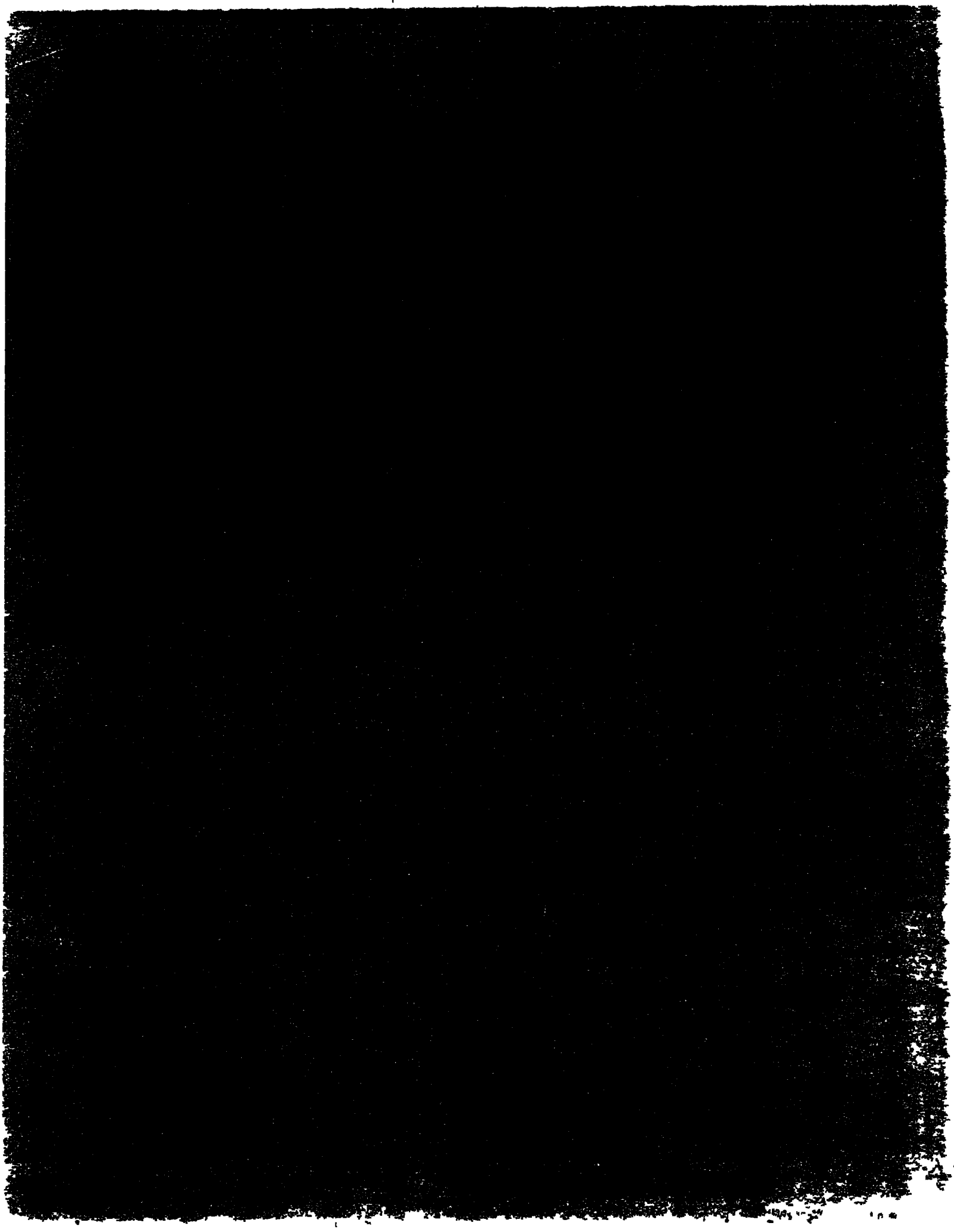


OFFICE OF THE ELECTION OFFICER
% INTERNATIONAL BROTHERHOOD OF TEAMSTERS
25 Louisiana Avenue NW
Washington, DC 20001
(202) 624 8778
1 800 828 6496
Fax (202) 624 8792

Michael H Holland
Election Officer

Chicago Office
% Cornfield and Feldman
343 South Dearborn Street
Chicago, IL 60604
(312) 922 2800

March 25, 1991

VIA UPS OVERNIGHT

Horace Miranda
1017 West 7th Street
Upland, California 90620

Richard Martino
Secretary-Treasurer
Teamster Local 420
1221 North Peck Road
South El Monte, California 91733

Arnie Weinmeister
4th Vice President &
Western Conference Director
101 Elliot Avenue, West
Suite 500
Seattle, Washington 98119

Re Election Office Case No. P-685-LU420-CLA

Gentlemen

A pre-election protest was filed pursuant to Article XI, Section 1 of the ***Rules for the IBT International Union Delegate and Officer Election***, revised August 1, 1990 ("***Rules***") The claimant, Horace Miranda, protests the use of the Western Conference of Teamsters logo on three pieces of campaign literature of the "420 Delegate Committee" from Local 420, contending that such use is tantamount to an endorsement of that slate by the Western Conference of Teamsters

This exact issue, involving one of the very same leaflets being protested here, was presented and resolved in John Conway and Barry Clark, et al , P-541-LU420-CLA, affirmed 91-Elec App -87 The Election Officer and the Independent Administrator denied protests concerning the use of the Western Conference of Teamsters logo on the campaign material prepared and distributed by the "420 Delegate Committee "

The two additional leaflets, like the third leaflet discussed specifically in the earlier case, are clearly campaign materials Thus, for the reasons stated in that case, a copy of which is enclosed, the instant 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

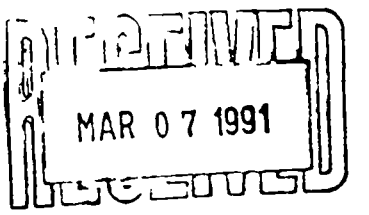
receipt of this letter The parties are reminded that, absent extraordinary circumstances, no party may rely upon evidence that was not presented to the Office of the Election Officer in any such appeal Requests for a hearing shall be made in writing, and shall be served on Independent Administrator Frederick 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

MHH/ads

cc Frederick B Lacey, Independent Administrator
Geraldine L Leshin, Regional Coordinator



IN RE:

JOHN CONAWAY,

Complainant,

and

BARRY L. CLARK, RALPH YAGER, JOE DeCROIX, and CLYDE CRAIG

Respondents.

91 - Elec. App. - 87 (SA)

DECISION OF THE INDEPENDENT ADMINISTRATOR

420/CLA

XMHIT
BJH
JS

This matter arises out of an appeal from a February 22, 1991, decision of the Election Officer in Case No. P-542-LU420-CLA. A hearing was held before me by way of teleconference on March 5, 1991, at which the following persons were heard: John Conaway, the complainant; Richard Martino, Secretary-Treasurer of Local 420; the respondents, Barry Clark, Ralph Yager, and Clyde Craig; and John J. Sullivan, on behalf of the Election Officer.

Mr. Conaway is a member of Local 420 and a candidate for delegate to the 1991 IBT International Convention on behalf of that Local Mr Conaway claims that an opposing slate of candidates -- the "420 Delegate Committee" -- improperly reprinted the logo of the Western Conference of Teamsters in the upper left-hand corner of campaign material sent to members of Local 420. A copy of that material is attached hereto as Exhibit A.

Article X, Section 1.b.(3) of the Rules For The IBT International Union Delegate And Office Election (the "Election Rules") prohibits the use of Union funds or resources, including its stationery, to promote the candidacy of any individual or slate. Although that provision expressly disallows the use of official stationery with the Union's insignia,[1] it does not prohibit the use of the insignia, per se, on campaign literature.

In In Re: Majka, 91 - Elec. App. - 40 (January 18, 1991), the Independent Administrator affirmed the Election Officer's denial of a pre-election protest challenging campaign literature on the ground that such literature contained the insignia of the International Brotherhood of Teamsters. As concluded in Majka:

> [T]he use of the insignia on the literature here is not deceptive or misleading because the literature is clearly campaign literature and not an official notice implying the endorsement of [the] Local . . . or the International.

In this matter, the same analysis applies. The material in question, cannot be reasonably read as anything other than campaign literature. As the Election Officer notes in his Summary:

> Its general appearance does not convey that it is an official missive from the Western Conference. . . . The likelihood that such material misleads the reader into believing that the campaigning slate has the imprimatur of the Western Conference is extremely remote.

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[1] In the "Definitions" section of the Election Rules, the term "Union" is defined to include the International Union and all subordinate bodies "unless explicit distinction is made." Election Rules at A-8. Because Article X, Section 1.b.(3) makes no such distinction, its prohibition extends to the use of stationery with the logo of the Western Conference, a subordinate body of the IBT.

Accordingly, the ruling of the Election Officer is affirmed in all respects. The following comments of the Election Officer, as found in his Summary, are, however, worth repeating:

> The Election Officer declines to establish a per se prohibition [on the use of any Union insignia on campaign material] . . . and will continue to evaluate use of [a] Union insignia, as well as all other challenged conduct, against the totality of the circumstances presented on a case-by-case basis. In this case, there appears to be no reasonable probability that the material will be read as carrying the official blessing of the Western Conference. Different facts, however, which tend more strongly to imply Union endorsement or to implicate expenditure of Union funds or resources, may well produce a different result.

Frederick B. Lacey
Independent Administrator
By: Stuart Alderoty, Designee

Dated: March 6, 1991.