

OFFICE OF THE ELECTION OFFICER
% INTERNATIONAL BROTHERHOOD OF TEAMSTERS
25 Louisiana Avenue, NW
Washington, DC 20001

Michael H. Holland
Election Officer

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August 14, 1991

VIA UPS OVERNIGHT

Gerald Moerler
c/o The Delegates For
Ron Carey Slate
13104 Glen Ct. #40
Chino Hills, CA 91709

Everett J. Roberts
Trustee
c/o IBT Local 63
1616 W. Ninth St.
Room 205
Los Angeles, CA 90015

Re: Election Office Case No. P-805-LU63-CLA

Gentlemen:

A protest was filed pursuant to the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("*Rules*") by Gerald Moerler a member of Local Union 63. In his protest, Mr. Moerler contends that he was threatened by Tony DeLuna, a member of Local Union 63 and a shop steward for Local Union 63 at the Von's facility in Sante Fe Springs, California and a support of the Informed Teamsters for the Good of All Slate.

The protest was investigated by Adjunct Regional Coordinator Ray Cordova. Mr. Cordova spoke with Mr. Moerler as well as Mr. DeLuna. He also interviewed all but one of the IBT members who allegedly witnessed the confrontation between Messrs. Moerler and DeLuna.

The genesis for the incident leading to the protest was apparently the Election Officer's investigations and decisions in Election Office Case No. P-768-LU63-CLA and Post-73-LU63-CLA. During the course of those investigations, the Election Officer's representative had contacted and interviewed Tom McCann, a Local Union 63 member also employed by Von's. Mr. McCann was apparently upset and/or angry about being interviewed by a representative of the Election Officer.¹ On Friday, June 7th, 1991, Mr.

¹ In this regard the Election Officer would note that the only method he has for investigating and, where appropriate, remedying protests is to contact and interview IBT members who may have knowledge of the underlying facts of the protest. The Election Officer maintains confidentiality with respect to all such interviews. Further if the

McCann approached Mr. DeLuna in or about the drivers' room at the Sante Fe Springs Von location and asked Mr. DeLuna why Mr. DeLuna had given Mr. McCann's name to the Election Officer in connection with the Election Officer's investigation of the above cases. Mr. DeLuna stated that he had not given Mr. McCann's name to the Election Officer but suggested that Mr. McCann check with Mr. Moerler who was standing in the drivers' room at the same time.

Mr. McCann then approached Mr. Moerler and, in what Mr. McCann concedes was an angry manner, asked Mr. Moerler why Mr. McCann's name and telephone number were given to the Election Officer. As previously noted, see Footnote 1 *supra*, investigation and resolution of protests is dependent upon the Election Officer contacting and interviewing IBT members. The Election Officer seeks the names of all possible members who may have information relating to the facts of any filed protest. The Election Officer has such obligations and responsibility pursuant to both the March 14, 1989 Consent Order and the *Rules*. It is therefore particularly inappropriate for an IBT member so contacted by the Election Officer or his representative to seek or attempt to seek retribution against any IBT member because of information given by such IBT member to the Election Officer. In this regard, the Election Officer notifies and counsels Mr. McCann, Mr. DeLuna, Mr. Moerler and all other members of Local Union 63 that it is inappropriate to confront any other IBT member because of information given by that member to the Election Officer. Any issues concerning information given to the Election Officer or the method by which the Election Officer conducts an investigation should be brought to the attention of the Election Officer directly.

Mr. Moerler responded to Mr. McCann's question by stating that he had not given Mr. McCann's telephone number to the Election Officer. Mr. Moerler stated that he gave the Election Officer a list of names of Local 63 members who Mr. Moerler suggested the Election Officer contact; Mr. McCann was one of those members. Mr. Moerler also stated that he would have called Mr. McCann and notified him that his name was provided to the Election Officer but he, Mr. Moerler, did not have Mr. McCann's telephone number.

Mr. DeLuna then entered the conversation in a loud and aggressive manner. Mr. Moerler, according to Mr. McCann and the other witnesses, responded in kind. Mr. Moerler states that he then asked Mr. McCann to go outside so that he and Mr. McCann could continue the conversation without interruption from Mr. DeLuna. Mr. McCann, on the other hand, states that Mr. Moerler asked Mr. DeLuna to step outside. At any rate, the conversation moved to outside the Von's building. Outside the building the

member interviewed does not wish to have his/her name revealed the Election Officer refrains from doing so in his decision. Thus for instance in the instant decision, of all the members interviewed, only Mr. McCann's name is revealed.

conversation continued primarily between Mr. DeLuna and Mr. Moerler. Mr. McCann and all other witnesses state that the conversation was confrontational, loud and aggressive. They all agree that both Messrs. Moerler and McCann were loud and argumentative. The confrontation ended when Mr. Moerler walked away.

It is undisputed that this situation commenced when Mr. McCann approached Mr. Moerler in an angry manner. It is also undisputed that Mr. DeLuna then entered into the conversation, without invitation from either Mr. Moerler or Mr. McCann. All witnesses agreed that the conversation, particularly between Messrs. Moerler and DeLuna, was loud and heated. Some of the witnesses state that Mr. DeLuna was provocative; other witnesses deny that conclusion. None of the witnesses heard any threats nor did they see any physical contact of any kind between Mr. DeLuna and Mr. Moerler.


The facts of this case fail to demonstrate that Mr. Moerler was threatened or coerced during the events of June 7, 1991. No evidence was uncovered in the investigation supporting any contention that Mr. DeLuna's actions were "initiated higher up" in the Union.² Mr. Moerler was an active delegate to the June, 1991 IBT International Union Convention in Orlando, continues to campaign, and continues to utilize, without interference, the protest and appeal provisions of the *Rules*. All witnesses to the argument between Messrs. DeLuna and Moerler cooperated with the Election Officer representative, negating a conclusion that the confrontation coerced Local Union 63 members from responding to investigations conducted by the Election Officer.

The Election Officer commends Mr. Moerler for being sufficiently sensible to step away from the conversation prior to the time any such threats or physical violence erupted. Further, the Election Officer puts all parties to this confrontation on notice that the behavior exhibited on June 7, 1991 was inappropriate. The Election Officer urges the Trustee of Local Union 63 to take such steps, as may be appropriate and effective, in preventing this type of behavior in the future.

² Since the filing of this protest, Local 63 has been placed in trusteeship by the International and the officers of the Local relieved of duty.

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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/cdk

cc: Frederick B. Lacey, Independent Administrator

Tony DeLuna
14509 Cartela Dr.
La Mirada, CA 90638

Tom McCann
2020 Dolphin
Riverside, CA 92506

Robert Marciel

Geraldine Leshin, Regional Coordinator