

November 19, 1996

VIA UPS OVERNIGHT

Sergio Ponce
2807 Pepper Wood Drive
Sugarland, TX 77847

Richard Brook
Cohen, Weiss & Simon
330 W. 42nd Street
New York, NY 10036

James Hoffa Campaign
c/o Bradley T. Raymond
Finkel, Whitefield, Selik, Raymond,
Ferrara & Feldman, P.C.
32300 Northwestern Highway, Suite 200
Farmington Hills, MI 48334

Re: Election Office Case No. P-1143-LU919-SOU

Gentlemen:

A pre-election 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 Sergio Ponce, a member of Local Union 919. Mr. Ponce alleges that an unidentified supporter of James P. Hoffa pointed a knife towards several IBT members as they campaigned in support of the Ron Carey No Corruption-No Dues Increase Slate ("Carey slate") at an Anheuser Busch Brewery in Houston, Texas. Both Mr. Hoffa and Mr. Carey are candidates for general president.

In response, Mr. Hoffa states that his campaign is not responsible for the actions of an individual who has no connection to the campaign.

This protest was investigated by Regional Coordinator Dolores C. Hall.

On October 23, 1996, at approximately 2:45 p.m., Doug Mims, a candidate for International vice president, Local Union 988 members James Johnson and John Palmer, Local Union 745 member Tim Raiter and the protester campaigned at the Anheuser Busch Brewery in Houston. The brewery is located on one side of a four-lane highway while the employee parking lot is located directly across the street from the facility. A median is located in the center of the highway, and a traffic light regulates pedestrian crossing. Mr. Ponce and Mr.

Palmer campaigned on the median in support of Mr. Carey. At the same time, Local Union 919 President Richard Alcalá, a Hoffa supporter, campaigned for Mr. Hoffa on the median, using a megaphone.

Mr. Johnson campaigned for Mr. Carey at the curb by the traffic light across from the plant. Mr. Mims and Mr. Raiter campaigned for Mr. Carey under a covered walkway near the employee parking lot.

An unidentified individual exited the plant at about 2:45 p.m. and walked toward the employee parking lot. As he approached, the unidentified individual began chanting “Hoffa” in unison with Mr. Alcalá. Mr. Johnson asked him, “You don’t really believe that, do you?” Apparently, in response, the unidentified individual swung his hand out to display a 3×4-inch knife. Mr. Johnson side-stepped the man to let him pass, but shouted a warning to Mr. Mims and Mr. Raiter as the man approached. Mr. Mims attempted to shake the man’s hand. The man said that he didn’t want to shake his “fucking hand” and he reached his right hand into his pocket and pulled out the knife. Mr. Mims attempted to diffuse the situation by asking if the knife was made out of chocolate. The unidentified man continued past Mr. Raiter toward the employee parking lot. Mr. Raiter began following the man after he made a derogatory remark while passing, but was called back by Mr. Mims. The unidentified man left the parking lot driving an early 1990s model Ford Mustang.

Article VIII, Section 11(f) of the *Rules* prohibits retaliation and the threat of retaliation by any person against a member for exercising any right guaranteed by the *Rules*. The right to engage in political and campaign activities includes the right to be free from threats of violence. Lopez, P-456-LU743-CHI (April 10, 1996) (finding “I’ll kill you” to violate the *Rules*, in light of ongoing animosity between the parties); Smith, P-600-LU150-CSF (April 30, 1996) (finding remark “you’ll be taken out of here in a body bag” to violate the *Rules*); Kelly, P-600-LU705-CHI et seq. (March 27, 1991) (finding an aggressive threat to “kick their ass” made in a menacing manner to be harassment, in violation of the *Rules*). A threat of physical violence for protected election activity is chilling and cannot be tolerated.

The flashing of a knife at campaigners is an impermissible threat of physical violence and prohibited retaliation, as defined by the *Rules*. Under these circumstances, even without a verbal threat accompanying the act, the unidentified individual clearly attempted to intimidate and threaten campaigners from exercising their rights under the *Rules*. Therefore, a violation of the *Rules* occurred.

The Election Officer’s investigation did not reveal the identity of the violator. While Mr. Raiter subsequently contacted Ms. Hall and provided a license plate tag number for the vehicle allegedly driven by the perpetrator, inquiry to the Texas Department of Public Safety revealed that the license plate number provided does not match any existing tag numbers in the state computer. Inquiry to Anheuser Busch revealed that the company does not require vehicle registration for employees and has over 1,000 employees. While Anheuser Busch was cooperative, it was unable to identify the individual involved. Finally, while descriptions from

witnesses of the perpetrator were fairly consistent with one another, no person has been able to definitely identify the assailant or the vehicle involved. The issue remains as to whether Mr. Hoffa's campaign should be held accountable for the actions of the unidentified assailant. The sole evidence presented linking this person to Mr. Hoffa's campaign is that he allegedly chanted "Hoffa" in unison with Mr. Alcalá's megaphone. The Election Officer concludes that there is insufficient evidence to sustain the charge that the Hoffa campaign has violated the *Rules*.

Based upon the foregoing, the protest is GRANTED as to the unidentified assailant, and DENIED as to the Hoffa campaign.

When the Election Officer determines that the *Rules* have been violated, she "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.

All IBT members employed at Anheuser Busch in Houston are represented by Local Union 919. Therefore, the Election Officer orders that Local Union 919 shall post the attached "Notice to All Local Union 919 Members" from the Election Officer on all local union bulletin boards located at the local union's headquarters and Anheuser Busch.

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).

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

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Copies of the request for hearing must be served on the parties listed above as well as upon the Election Officer, 400 N. Capitol Street, Suite 855, Washington, DC 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
Dolores C. Hall, Regional Coordinator

NOTICE TO MEMBERS OF LOCAL UNION 919

You have the right to participate in campaign activities on behalf of candidates for International officer in the upcoming elections. You have the right to run for office, to openly support or oppose any candidate, to aid or campaign for any candidate, and to make personal campaign contributions.

In a recent decision, the Election Officer found that an unidentified individual attempted to intimidate supporters of Ron Carey, a candidate for general president, by flashing and pointing a knife in their direction. The Election Officer found that this violates the *Election Rules*. It is a violation of the *Rules* to threaten, intimidate or harass any IBT member because of their campaign activities.

The Election Officer will not permit or condone any threats, intimidation or harassment of any IBT member for his/her participation in the International officer election. The Election Officer will not hesitate to impose the most severe sanctions against any person engaging in such threatening, intimidating or harassing activities.

Anyone subject to such conduct should file a protest with the Election Officer at 400 N. Capitol Street, N.W., Suite 855, Washington, D.C. 20001; telephone (800) 565-VOTE or (202) 624-3500; facsimile (202) 624-3525.

Date

Barbara Zack Quindel
Election Officer

This is an official notice which must remain posted through December 10, 1996 and must not be defaced or altered in any manner or be covered with any other

material.