

December 7, 1995

VIA UPS OVERNIGHT

Tony Alonzo
902 Broadmore
La Puente, CA 91744

Herman Lopez
310 Puente Avenue
West Covina, CA 91790

Randy Cammack
Bob Cannon
Dallas Wimer
Bill Logan
Teamsters Local Union 63
379 West Valley Boulevard
Rialto, CA 92378

Re: Election Office Case No. P-227-LU63-CLA

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 Tony Alonzo and Herman Lopez, members of Local Union 63, against Local Union 63 Secretary-Treasurer Randy Cammack and Business Agents Bob Cannon, Dallas Wimer and Bill Logan. The protesters claim that they were dismissed from their employment at ABF Freight System, Inc. ("ABF") at the direction of the charged parties, in violation of the *Rules*, and that the charged parties threatened the employment of Mr. Alonzo's daughter at ABF. The protesters state these actions were taken because they are candidates for delegate and active supporters of James P. Hoffa for general president. They allege that the charged parties are also candidates for delegate who support the candidacy of General President Ron Carey.

The charged parties deny any connection with the dismissal of Mr. Alonzo and Mr. Lopez. They further assert that they are not candidates for delegate and have no knowledge of the protesters' candidate status. Finally, the secretary-treasurer and president of Local Union 63 contend that they have not campaigned on behalf of any candidates for International office and have

no plans to do so.

Regional Coordinator Dolly M. Gee investigated the protest.

I. Factual Background

The protesters were employed by Willig Freight Lines until October 1995, when the company ceased operations due to bankruptcy. At some point during October, both Mr. Alonzo and Mr. Lopez applied directly to ABF, rather than through the Local Union 63 hiring hall, to work as casual employees. Mr. Alonzo states that he received six driving assignments from ABF during October and that his last day of employment was October 26. Mr. Lopez worked for ABF on October 23, 24 and 27.

By letter dated October 30, 1995, ABF informed Local Union 63's hiring hall that Mr. Alonzo and Mr. Lopez "do not meet ABF Freight System, Inc. standards with respect to their work habits."¹ The letter, signed by Dispatch Supervisor Ernie Yandrich, requested that the hall not refer Mr. Alonzo and Mr. Lopez to ABF for casual work in the future.

This letter (known as a "blow out letter" in Local Union 63) is the standard communication sent by ABF to the hiring hall when the company is dissatisfied with casual employees. ABF has sent numerous "blow out" letters to the hiring hall over the past year, several of which applied to 30 or 40 employees in one letter.² According to the local union officers, they have questioned ABF in the past about why certain employees are included in these letters but have been totally rebuffed. The company's position, the officers state, is that ABF has complete discretion to hire and dismiss casual employees.

ABF is signatory to a number of national, regional and local collective bargaining agreements covering freight employees. Under the contracts, ABF may use a casual employee at its discretion until he or she has completed 70 eight-hour assignments in a 180-day period. At that point, the employee is considered a "preferred casual" and the company has 30 days to decide "whether such casual meets the Employer's hiring standards and qualifications." Western States Area Supplemental Agreement, Article 60, Section 4(e). If the casual passes this test, he or she is placed on a "preferential hiring list" for future employment. Only casuals in this category are covered by the grievance procedure.

¹According to ABF officials, it is the company's standard practice to send discharge letters to the local union's hiring hall, even if the employees involved had been hired outside of the hiring hall. This system is so the local union will not assign such individuals to ABF in the future.

² The son of Local Union 63's president was included in a letter dated May 22, 1995.

ABF's personnel manager stated that use of casuals is based on the availability of work and/or job performance. The dispatch supervisor stated that ABF's acquisition of another freight company in late September 1995 resulted in an increased need for drivers, causing him to hire 10 to 12 casual drivers per day. That number gradually declined, according to Mr. Yandrich, to the point where he is now using only three casual drivers daily. Mr. Yandrich further explained that with the closing down of Willig Freight Lines, he has many good drivers to choose from when hiring casual employees.

All ABF officials contacted during the course of the Election Officer's investigation (the personnel manager, the operations manager, and the dispatch supervisor and the branch manager at the facility where the protesters were employed) insist that Local Union 63 had nothing to do with the company's dismissal of Mr. Alonzo and Mr. Lopez.

II. Discharge by ABF

The protesters assert that the charged parties violated Article VIII, Sections 11(a)-(f) of the *Rules* by directing ABF to discharge them from employment. The protesters state that an earlier protest was filed by officers of Local 63 against Mr. Lopez concerning his campaigning for Mr. Hoffa at another employer.³ Since that protest was denied, Mr. Alonzo and Mr. Lopez claim, "Local 63 officers and others supporting Ron Carey have vowed to thwart our efforts to support Brother Hoffa's campaign."

Article VIII, Section 11(a) of the *Rules* states that "(a)ll union members retain the right to participate in campaign activities, including the right to run for office, to support or oppose any candidate, [and] to aid or campaign for any candidate . . ." Section 11(f) prohibits retaliation by a local union or any IBT member "against a Union member . . . for exercising any right guaranteed by this or any other Article of the *Rules* . . ."

Both protesters have engaged in campaign activities on behalf of Mr. Hoffa, such as soliciting signatures on accreditation petitions and distributing literature, and the local union officers are aware of these activities. Therefore, any attempt by officers of Local Union 63 to cause the protesters' discharge from employment would constitute a violation of the *Rules*. The evidence here, however, does not support the protesters' contentions.

Mr. Alonzo states that on October 26, 1995, he encountered Business Agent Bob Cannon at ABF. Mr. Cannon commented on the fact that Mr. Alonzo was wearing buttons in support of Mr. Hoffa as well as Andy Soto and Donna May, who were candidates for local union office. The following day, Mr. Alonzo did not receive an assignment from ABF and telephoned

³Burrows, P-118-LU70-CLA (September 13, 1995).

Dispatch Supervisor Yandrich to inquire what had happened. According to Mr. Alonzo, Mr. Yandrich stated: "I can't use you any more. It's political. It's not your work." Mr. Alonzo claims that he had never been criticized for his work habits by anyone at ABF.

Mr. Lopez states that he and Mr. Alonzo saw Mr. Cannon at ABF on October 24, 1995. According to Mr. Lopez, he and Mr. Alonzo were wearing Hoffa t-shirts and Soto/May buttons on that date. Mr. Cannon, claims Mr. Lopez, told the protesters: "You're on the wrong side. You'd better be careful. These people don't like this kind of stuff."

Mr. Lopez's last day at ABF was October 27, 1995. Mr. Lopez telephoned the dispatch supervisor to ask why ABF did not hire him after October 27. According to Mr. Lopez, Mr. Yandrich told him that "it's not your work; it's other factors," but would not elaborate, stating that the discharge decision "came from up top."

Mr. Yandrich contends that he told the protesters in separate conversations what he tells all casual employees that ABF discharges: "You didn't meet the Company's require-ments. It's a management decision." Mr. Yandrich states that Mr. Alonzo replied, "I know it's not your fault. There's no hard feelings. I know it's political."

The Election Officer credits the testimony of Mr. Yandrich that he dealt with the protesters in the same manner as he does all other casual employees in their situation. The investigation conducted by the Election Officer shows that it is a common practice at ABF to discharge casual employees by means of the "blow out" letter, and such employees have no recourse under the contract to the grievance procedure. It strains credulity to think that Mr. Yandrich would tell Mr. Alonzo and Mr. Lopez, who worked for ABF for six days and three days respectively, that they were discharged for political reasons. There is no evidence that ABF has any interest in the outcome of the delegate or International officer election. Secondly, the fact that ABF "blew out" the son of the Local Union 63 president in May 1995 demonstrates that the company is not concerned with appeasing local union officers.

In regard to the protesters' allegations about Mr. Cannon, the latter denies commenting on the protesters' t-shirts and campaign buttons on October 24 and October 26. Even if Mr. Cannon did make the alleged remarks, there is no connection between these comments and the protesters' discharge. Therefore, the Election Officer finds the evidence does not support the allegation that ABF discharged the protesters at the direction or request of Local Union 63 officers.

III. Threats Against Ms. Alonzo

Monique Alonzo, Protester Alonzo's daughter, was also laid off from Willig Freight Lines and began working as a casual clerical employee at ABF on a full-time basis about two months before the protest was filed. The protest claims that Local Union 63 business agents mentioned Ms. Alonzo "in a threaten[ing] manner," implying "that she is on the hit list, or that [her] employment is

tentative.”

Mr. Alonzo states that during the week of October 30, 1995, he saw Business Agent Wimer at a grievance hearing. According to Mr. Alonzo, Mr. Wimer stated that “your daughter works for ABF,” which alarmed him as he had tried to shield his daughter from any involvement with his discharge. Mr. Alonzo denied that his daughter worked at ABF, but Mr. Wimer repeated his statement. Mr. Lopez was present at the grievance hearing and confirmed Mr. Alonzo’s statements.

Mr. Wimer stated that he recently encountered Ms. Alonzo during a visit to ABF and exchanged pleasantries with her. When he saw Mr. Alonzo at the grievance hearing, Mr. Wimer stated, he mentioned that he had seen his daughter at ABF. According to Mr. Wimer, his conversation with Mr. Alonzo was very brief and was neither hostile nor confrontational. Mr. Wimer contended that he had previously helped Ms. Alonzo obtain employment at Willig Freight Lines at her father’s request.

A second conversation involving Monique Alonzo occurred on November 1, 1995 when Mr. Alonzo and Mr. Lopez were paying their dues at the Local Union 63 hiring hall. According to the protesters, they ran into charged party Bill Logan, a local union representative, and told him about their dismissal from ABF. Mr. Logan, the protesters assert, acted surprised and spoke in a sarcastic and intimidating tone of voice. Mr. Logan then inquired whether Ms. Alonzo worked for ABF, which Mr. Alonzo denied. When Mr. Logan repeated this statement, Mr. Alonzo inquired how and why he knew about his daughter’s employment and told Mr. Logan to leave her alone. Mr. Logan allegedly asked Mr. Alonzo why he was so upset and stated that he had nothing to do with his and Mr. Lopez’s dismissal from ABF.

Mr. Logan acknowledges that a conversation took place but states that Mr. Alonzo informed him about ABF’s action and asserted that Local Union 63 was involved. Mr. Logan told the protesters that the local union had nothing to do with their dismissal and asked whether Ms. Alonzo still worked at ABF. Mr. Logan claims that he never spoke to the protesters in a sarcastic or intimidating tone of voice.

Mr. Alonzo contends that during these conversations, the charged parties were trying to intimidate him by referring to his daughter’s employment at ABF.

Mr. Alonzo states that during the week of November 6, 1995, the company offered Ms. Alonzo only two days of work. Jim Findler, the operations manager at ABF, stated that he initially hired Ms. Alonzo as a casual clerical and continues to employ her in that capacity. According to Mr. Findler, Ms. Alonzo worked more hours when she was hired to fill in for permanent employees; however, he subsequently reorganized his department to better accommodate the schedules of permanent employees and therefore no longer needs

Ms. Alonzo as frequently.⁴ Mr. Findler contended that Local Union 63 had no input at all into Ms. Alonzo's schedule.

The Election Officer finds that the reduction in Ms. Alonzo's hours during the week of November 6 resulted from the legitimate needs of management and has no connection to the charged parties. The Election Officer credits the explanation of Mr. Wimer and Mr. Logan regarding their conversations with the protesters and does not find their comments about Ms. Alonzo were an effort to intimidate the protesters for their campaign activities or threaten her employment at ABF in violation of the *Rules*.

For the foregoing reasons, the protest is DENIED.

⁴Ms. Alonzo continues to be employed by ABF as a casual clerical.

Tony Alonzo & Herman Lopez
December 7, 1995
Page 7

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, Esquire
Latham and 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, 400 North Capitol Street, Suite 855, Washington, D.C. 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
Dolly M. Gee, Regional Coordinator