

September 29, 1998

VIA FIRST CLASS MAIL

Mauricio Terrazas
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La Verne, CA 91750

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Teamsters Local Union 63
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James P. Hoffa
2593 Hounds Chase
Troy, MI 48098

Re: Election Office Case No. PR-268-LU63-EOH

Gentlemen:

Mauricio Terrazas, a member of Local Union 63, filed a pre-election protest pursuant to Article XIV, Section 2(b) of the ***Rules for the 1995-1996 IBT International Union Delegate and Officer Election ("Rules")*** against Randy Cammack, secretary-treasurer of Local Union 63. Mr. Terrazas alleges that Mr. Cammack threatened to terminate his active union membership because of his support of Tom Leedham, a candidate for general president, by requiring Local Union 63 to issue him a withdrawal card.¹ Mr. Cammack denied the allegation.

The protest was investigated by Election Office Counsel David S. Paull.

¹ Only active IBT members are eligible to vote in the rerun election. ***Rules***, Article VI.

The investigation discloses that the protester is 81 years old. Although Mr. Terrazas was employed as a truck driver for many years, he has not worked in a job within the jurisdiction of Local Union 63 for at least the six months prior to the filing of his protest. His previous service as a truck driver entitled him to certain retirement benefits, which he has received. Prior to becoming a member of Local Union 63, Mr. Terrazas was a member of Local Union 208. Local Union 208 merged with Local Union 63 on May 1, 1995.

The *IBT Constitution* at Article XVIII, Section 6, provides in pertinent part:

When a member becomes unemployed in the jurisdiction of the Local Union, he shall be issued an honorable withdrawal card upon his request. If no request is made, an honorable withdrawal card must be issued six (6) months after the month in which the member first becomes unemployed, if he is still unemployed at that time.

Like Local Union 208 and despite the directive of Article XVIII, Section 6, Local Union 63 has continued to accept dues from Mr. Terrazas and he is currently an “active” member of the IBT.

On June 24, 1998, a letter was sent to each local union, including Local Union 63, from then General Secretary-Treasurer Tom Sever. Included in the letter was Mr. Sever’s instruction that each local union update the “member’s ledger record to reflect their current standing in your Local Union” in anticipation of the pending rerun election. A second memo on the subject was sent out by Mr. Sever on July 1, 1998, which provided in part as follows:

When reviewing the membership mailing list, it is also imperative that actions be taken to ensure that each member’s ledger record contains the proper membership status code. Of particular significance is that . . . no members who are in an inactive membership status are coded with an active membership code - this would be applicable to members who should be in a withdrawal or suspended status; or, the correct identification of an individual in a non-membership status.

At the time Mr. Sever’s letter of June 24, 1998 was received, Local Union 63 was in the process of reviewing its membership records and sending requests for additional information to a number of members who were paying dues but did not appear to be working. Among these were a large group of retirees acquired by Local Union 63 in the merger with Local Union 208. Mr. Terrazas was listed in this category. He was sent several letters inquiring about his status. There is no evidence that he ever responded.

On July 24, 1998, Local Union 63 sent a letter to Mr. Sever indicating its intention to “issue withdrawal cards” to all persons as required by the *IBT Constitution*, subject to approval by the IBT. Mr. Sever answered on August 13, 1998, indicating that the IBT’s approval was

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not necessary “as Article XVIII, Section 6 and 7 of the International Constitution govern the issuance and deposit of Withdrawal Cards.”

Local Union 63 has approximately 13,000 members, 4,000 of which are employed in the freight industry. So far in 1998, Local Union 63 has issued 1,175 withdrawal cards, including 268 to persons who, like Mr. Terrazas, have not demonstrated employment in any craft within the jurisdiction of Local Union 63 within the previous six months. As of the date the protest was filed, no withdrawal card has been issued to Mr. Terrazas. However, on August 27, 1998, Local Union 63 mailed Mr. Terrazas a letter indicating its intent to do so.

Article VIII, Section 11(f) of the *Rules* prohibits retaliation against any member by the union or its employees for exercising any right guaranteed by the *Rules*. To sustain a violation of this section, some evidence must be presented or disclosed which expressly or inferentially connects the conduct which is alleged to be improper to activity protected by the *Rules*. Giacumbo, P-100-IBT-PNJ (October 13, 1995); Salucci, P-178-LU552-MOI (October 31, 1995); Rogers, P-1346-IBT-NYC (March 4, 1997), aff'd, 97 - Elec. App. - 320 (KC) (March 17, 1997).

The protester contends that the letter indicating that he will be issued a withdrawal card by Local Union 63 constitutes an improper threat of retaliation under the *Rules* because he has been active in the election campaign and because his status was not questioned until after he displayed support for Mr. Leedham.

However, the requirements of the *IBT Constitution* at Article VIII, Section 6 constitute a sufficient reason, independent of the election, to defeat an inference of improper motivation. The timing of Local Union 63's actions are sufficiently explained by reference to Mr. Sever's correspondence. Clark, P-1282-LU995-EOH (December 2, 1996) (even where the adverse action was proximate to the protected conduct, a provision of the *IBT Constitution* requiring that a withdrawal card be issued to any member who has not worked under the jurisdiction of the local union for a period of six months is sufficiently independent to defeat an inference of retaliation).

Accordingly, the protest is DENIED.

Any interested party not satisfied with this determination may request a hearing before the Election Appeals Master within one (1) 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, 444 North Capitol Street, NW, Suite 445, Washington, DC 20001, Facsimile (202) 624-3525. A copy of the protest must accompany the request for a hearing.

Sincerely,

Michael G. Cherkasky
Election Officer

cc: Kenneth Conboy, Election Appeals Master