

November 4, 1998

VIA FACSIMILE AND FIRST CLASS MAIL

Billy Kraushaw
34133 Natoma
Auberry, CA 93602

Jose Romo
1445 E. La Salle
Fresno, CA 93728

Phil Armstrong, Business Agent
Teamsters Local Union 431
1140 W. Olive
Fresno, CA 93727

Jim Scales, Business Agent
Teamsters Local Union 431
1140 W., Olive
Fresno, CA 93727

Mario Garza
1759 S. Prospect Street
Fresno, CA 93706

Re: Election Office Case No. PR-319-LU431-NYC

Jimmy D. Hammock, President
Teamsters Local Union 431
1140 W. Olive
Fresno, CA 93728

Tom Leedham Campaign Office
P.O. Box 15877
Washington, DC 20003

Arthur Z. Schwartz, Esq.
Kennedy, Schwartz & Cure
113 University Place
New York, NY 10003

Gentlemen:

Billy Kraushaw and Jose Romo, both members of Local Union 431, 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 Phil Armstrong and Jim Scales. Both Mr. Armstrong and Mr. Scales are business agents employed by Local Union 431. The protesters allege that Mr. Armstrong and Mr. Scales removed campaign material from a bulletin board, despite a pre-existing right to utilize the board for campaign purposes. Mr. Armstrong and Mr. Scales admit that they removed campaign material from the bulletin board, but state that they were merely complying with a prior agreement they had made with the employer.

The protest was investigated by New York City Protest Coordinator Barbara C. Deinhardt.

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The protesters are employed by Certified Grocers in Southern California. There is no dispute that the campaign material was properly posted on a general purpose bulletin board and that campaign items regularly appear there. Neither Mr. Armstrong or Mr. Scales make any contention to justify their actions in removing the campaign literature. They state they were merely attempting to comply with a side agreement made during contract negotiations to keep "political material" off the board. Neither Mr. Armstrong, Mr. Scales or Don Gilpin, Director of Labor Relations for Certified Grocers, object to permitting employees to resume the posting of campaign material on the board.

Accordingly, the protest is GRANTED as to the business agents; and RESOLVED as to Certified Grocers.

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

The Election Officer orders Mr. Armstrong and Mr. Scales to immediately cease and desist from removing campaign literature posted in proper locations and from otherwise acting in violation of the **Rules**.

The Election Officer further orders that the attached "Notice To IBT Members Employed by Certified Grocers" be posted by Local Union 431 on the bulletin board at Certified Grocers immediately upon receipt of this decision and that the notice remain posted until December 3, 1998. Within (1) day after posting the Notice, Local Union 431 shall file an affidavit with the Election Officer demonstrating compliance with this order.

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 (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

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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, 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

Enclosure

cc: Kenneth Conboy, Election Appeals Master
Barbara C. Deinhardt, New York City Protest Coordinator

**NOTICE TO IBT MEMBERS
EMPLOYED BY CERTIFIED GROCERS**

The Election Officer has determined that you have a pre-existing right to use this bulletin board to post campaign material to otherwise engage in campaign activities, including the right to support or oppose any candidate, to aid or campaign for any candidate, to make personal campaign contributions and to distribute campaign literature supporting or attacking a member's candidacy.

Michael G. Cherkasky
Election Officer

This is an official notice that must remain posted until December 3, 1998, and must not be defaced or altered in any manner or be covered with any other material.