



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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April 24, 1991

**VIA UPS OVERNIGHT**

Sarah Zuniga  
c/o The Teamsters Tired of  
Corruption and Incompetence  
Slate  
1531 North H. Street  
Oxnard, CA 93003

Dennis A. Shaw  
c/o The Team '91  
Slate  
Secretary-Treasurer  
IBT Local Union 186  
1534 Eastman Ave.  
Suite B  
Ventura, CA 93013

David Mora  
400 Monroe St  
Ventura, CA 93003

**Re: Election Office Case No. Post-53-LU186-CLA**

**Gentlemen:**

A post-election protest was filed pursuant to the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("Rules") by Ms. Sarah Zuniga and Mr. David Mora on March 18, 1991. Delegate candidates Zuniga and Mora allege that (a) the delay in providing them with the addresses of worksites of some employers whose employees are represented by Local 186 prevented them from having a meaningful opportunity to campaign at such worksites and (b) the receipt of a substantial dues payments on the part of cash-paying members shortly prior to the election raises a question as to whether these members actually paid such dues arrearages.

The election for three delegates and two alternates at Local 186 concluded with the counting of the ballots on March 15, 1991. The ballots were mailed out on February 27, 1991. There were 597 ballots cast, with 86 challenged ballots and four void ballots, leaving 515 ballots which were counted. The results were:

DELEGATES

Dennis Shaw	319
Junior Ramirez	290
Oscar Almeida	279

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Sarah Zuniga	187
Gil Trejo	168
Ed Leighton	149

ALTERNATES

Abel Garcia, Jr	277
Juan O'Campo	274

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Juan M. Miramontez	155
David Mora	120

Thus, the margin of victory in the delegate race was 95 votes and in the alternate race the margin was 119 votes, with Mr. Mora losing by 154 votes.

With regard to the first issue concerning access to employer worksites, a pre-election protest was filed by Ms Zuniga, Mr. Mora, and Mr. Gil Trejo in Election Case No. P-617-LU186-CLA in which they alleged that the Local Union violated Article VIII, § 1 of the Rules. After an extensive investigation of the matter, the Election Officer concluded that the Local Union had "substantially complied with Article VIII of the Rules" and that "Ms. Ramirez, the Recording Secretary, exercised due diligence in obtaining the complete addresses from the various employers." While this decision may be considered dispositive with regard to this issue, the specific question of the effect of the delay, if any, in providing the employer worksite information must be judged against the standard of whether the delay may have affected the outcome of the election. Article XI, § 1(b)(2)

As noted, the Election Officer has previously found that Recording Secretary Ramirez exercised due diligence in obtaining the complete addresses of various employers. The request for the right to review the collective bargaining agreements was made, by letter, on February 25, 1991. On March 1, 1991, the contracts were reviewed. When the contracts did not in all cases reveal actual worksite addresses, and the Local - upon erroneous advice from its counsel - refused to provide additional information, a protest was filed. Within seven days thereafter, the Local had provided

an appropriate worksite list with actual addresses for all employer worksites, including addresses which had to be obtained solely to respond to this request.<sup>1</sup>

Most worksites of employers whose employees were represented by the Local were well known to the membership, including the candidates filing this protest, prior to the worksite list being provided. A number of the employers were very small, employing fewer than six members. The challengers also acknowledged that they knew at least one employer was out of business.

The challengers specifically suggested that they were harmed with regard to three UPS hubs in Ventura and Santa Barbara Counties: Goleta (Santa Barbara County), Ventura (Ventura County) and Newbury Park (Ventura County). However, the existence of these UPS hubs was well known at least to UPS members within the Local and the addresses could have been easily obtained by any candidate, if he or she did not already know them, simply by asking members supportive of their campaign. Further, the addresses could have been obtained, as the Local did for those employers whose addresses it did not have, by calling the employer or from telephone information.

Article XI, § 1(b)(2) of the *Rules* provides that "Post-election protests shall only be considered and remedied if the alleged violation may have affected the outcome of the election." For the violation to have affected the results of the election, there must be a meaningful relationship between the violation and the results of the election. See Wirtz v. Local Unions 410, 410A, 410B & 410C, International Union of Operating Engineers, 366 F 2d 438 (2nd Cir 1966), Dole v. Mailhandlers, Local 317, 132 LRRM 2299 (M D Alabama 1989). In view of the factors mentioned above, given the relatively short delay caused by the Local Union, and taking into account the relatively late initial request on February 25, 1991 for the employer worksite information, it can not be reasonably be concluded that the delay in the provision of the employer worksite information could have affected the outcome of the election. Accordingly, this aspect of the protest is DENIED.

The challengers also allege that considerable dues money was purportedly received shortly before the election by cash-paying members. They question the validity of these receipts and, therefore, whether these cash-paying members were, in fact, eligible to vote in the election. The investigation undertaken by the Election Officer reveals that there were 102 members who purportedly paid their dues shortly before the ballot count date, of whom 33 actually cast ballots. Apparently, the challengers are contending that dues payments were not actually made by these 33 members.

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<sup>1</sup> For certain employers, the only addresses the Local has recorded is a post office box number, since in the TITAN system this is the address the Local uses for billing purposes.

Sarah Zuniga  
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The Election Officer investigation found no improprieties. Of the 33 members who paid their arrearages in cash, 28 voted and had their ballots counted. The remaining five ballots were challenged, such challenges remain unresolved since the total number of challenges did not affect the election results.

In any event, 33 or 28 votes could not have affected this election. The margin of victory was 95 votes, elimination of 28, or 33, allegedly ineligible votes would not change the outcome. Thus the protest, even if there were a violation, must be DENIED. See Wirtz v. Local Union 125 International Hod Carriers' Building and Common Labors' Union, 270 F Supp 12, 62 LRRM 2141 (N D Ohio 1966).

Accordingly, all of the post-election protests of Ms. Zuniga and Mr. Mora are DENIED.

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/mjv

cc Frederick B. Lacey, Independent Administrator  
Geraldine L. Leshin, Regional Coordinator

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186/CLA

XMH  
BJH  
JS

IN RE:

SARAH ZUNIGA and DAVID MORA  
(THE TEAMSTERS TIRED OF  
CORRUPTION AND INCOMPETENCE  
SLATE)

and

DENNIS A. SHAW  
(THE TEAM '91 SLATE)

and

IBT LOCAL UNION NO. 186

91 - Elec. App. - 142 (SA)

DECISION OF THE  
INDEPENDENT  
ADMINISTRATOR

This matter arises out of an appeal from a Decision of the Election Officer in Case No. [REDACTED]. A hearing was held before me by way of telephone conference on May 1, 1991, at which the following persons were heard: the complainants, Sarah Zuniga and David Mora; Robert Vogel, an attorney on behalf of Local 186; Geraldine Leshin and Grant Crandall, Regional Coordinators; William Demers, an Adjunct Regional Coordinator; and John J. Sullivan, on behalf of the Election Officer.

The election for delegates and alternates at Local 186 concluded with the counting of ballots on March 15, 1991. Ms. Zuniga was an unsuccessful delegate candidate and Mr. Mora was an unsuccessful alternate candidate.

Ms. Zuniga and Mr. Mora filed a pre-election protest concerning access to employer worksite list information. After an extensive investigation of the matter, the Election Officer concluded that the Local had "substantially complied with Article VIII of the Rules For The IBT International Union Delegate And Officer Election (the "Election Rules"). The Election Officer's decision regarding the worksite list was issued on March 18, 1991, three days after the counting of the ballots. No appeal was taken from that decision. Instead, the complainants filed a post-election protest arguing that the Local's alleged delay in supplying them with the worksite information precluded them from effective campaigning and, thus, "may have affected the outcome of the election." Given that the Election Officer found no violation concerning the Local's cooperation with the complainants in supplying worksite list information, there is no need to entertain this post-election protest. Article XI, Section 1.b.(2) of the Election Rules provides that:

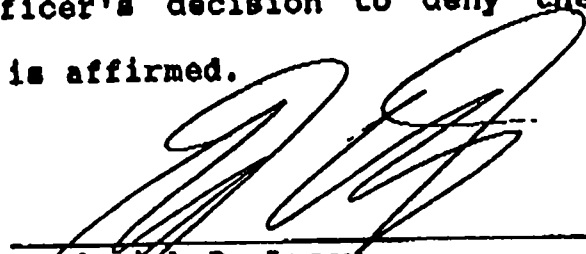
Post-election protests shall only be considered and remedied if the alleged violation may have affected the outcome of the election.

Given that there is no violation here, there is no need to reach the second prong of the analysis -- whether the alleged violation may have affected the outcome of the election.

Notwithstanding this, the Election Officer reviewed the matter and made a determination that the Local's alleged delay in supplying the worksite information did not affect the outcome of

the election. I have reviewed the Election Officer's findings as detailed in his decision and in the Election Officer's Summary and I adopt them herein.

Accordingly, the Election Officer's decision to deny the complainants post-election protest is affirmed.



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Frederick B. Lacey  
Independent Administrator  
By: Stuart Alderoty, Designee

Dated: May 1, 1991