

**OFFICE OF THE ELECTION ADMINISTRATOR
for the
INTERNATIONAL BROTHERHOOD OF TEAMSTERS**

IN RE: DENNIS SPEAK,)	Protest Decision 2001 EAD 177
)	Issued: February 20, 2001
)	OEA Case No. PR021012SO
Protestor.)	
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Dennis Speak, a member of Local 41, filed a pre-election protest pursuant to Article XIII, Section 2(b) of the Rules for the 2000-2001 IBT International Union Delegate and Officer Election (“*Rules*”). He alleges that ConAgra Foods Company violated Article VII, Section 11(e) of the *Rules* by denying IBT members access to its employee parking lot for the purpose of campaigning for election candidates among IBT members employed by ConAgra.

Election Administrator representative Dolores Hall investigated the protest.

Speak alleges that on February 6, 2001, Local 41 member Frank Rogers and IBT retiree Danny Brown went to ConAgra’s Marshall, Missouri facility to handbill employees with delegate election campaign materials. Speak says the guard told them that he had to contact the plant manager who was in negotiations at another location with officials of Local 41. After a long wait, the guard denied Brown and Rogers access to the employee parking lot and they were forced to leave.

Con Agra’s Marshall facility plant manager Byron Crook confirmed that on February 6, 2001, he was away from the plant at a hotel across town in negotiations with officials of Local 41, as were all other managers of the ConAgra plant. Since there were no managers available at that time, ConAgra’s guard decided on his own to deny access. Crook says he was unaware of the incident until he received the protest. He also stated that he has no problem with granting the parking lot access provided for by the *Rules*, but preferred that campaigning occur during shift change when employees are entering and exiting the parking lot. Crook further stated there is a wide asphalt area about 15 feet long in front of the lot where employees have to walk across to get to the plant. He stated this is where the two unions representing members at the plant have distributed literature in the past. Crook stated that all employees, including management, park in the same lot and he did not feel it appropriate to place handbills under the windshield wiper blades of all cars. Crook’s agreement to provide parking lot access at the Marshall facility and the conditions he has established are consistent with Article VII, Section 11(e) of the *Rules* and prior decisions that limit the placement of literature on employee cars parked in employer parking lots. *See Maxwell*, P731 (April 25, 1996); *Howe*, P1083 (November 14, 1991).

Based on the foregoing, this protest is deemed RESOLVED.

Any interested party not satisfied with this determination may request a hearing before the Election Appeals Master within two (2) working days of receipt of this decision. The parties

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are reminded that, absent extraordinary circumstances, no party may rely upon evidence that was not presented to the Office of the Election Administrator in any such appeal. Requests for a hearing shall be made in writing, shall specify the basis for the appeal, and shall be served upon:

Kenneth Conboy
Election Appeals Master
Latham & Watkins
Suite 1000
885 Third Avenue
New York, New York 10022
Fax: 212-751-4864

Copies of the request for hearing must be served upon all other parties, as well as upon the Election Administrator for the International Brotherhood of Teamsters, 727 15th Street NW, Tenth Floor, Washington, DC 20005, all within the time period prescribed above. A copy of the protest must accompany the request for hearing.

William A. Wertheimer, Jr.

William A. Wertheimer, Jr.
Election Administrator

cc: Kenneth Conboy
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