

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

<b>IN RE: MIKE WEBB,</b>	)	Protest Decision 2006 ESD 135
	)	Issued: March 29, 2006
<b>Protestor.</b>	)	OES Case No. P-06-065-011706-AT
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Mike Webb, a member and independent candidate for delegate of Local Union 391, filed a pre-election protest pursuant to Article XIII, Section 2(b) of the Rules for the 2005-2006 IBT International Union Delegate and Officer Election (“*Rules*”). He alleged that Randy Conrad, an employee of the local union, intimidated and harassed two retirees by taking their photographs and telling them they could not offer advice to the Members First slate at the January 14, 2006 nomination meeting. In addition, Webb alleged the election officials present at the meeting did not enforce the *Rules*.

Election Supervisor representative J. Griffin Morgan investigated this protest.

**Findings of Fact**

The nomination meeting was conducted by Maralin Falik of Election Services Corporation and assisted by Wayne Luchtenberg. Local 391 is electing eight delegate and eight alternate delegates to the IBT Convention. As a result of the nomination meeting, there are two slates: the Team 391 slate, comprised of incumbent local union officers, business agents and their supporters; the Members First slate, consisting of rank-and-file members; protestor Mike Webb, an independent candidate for delegate; and Bill Williams, an independent candidate for alternate delegate. The independent candidates submitted their acceptances in writing and did not attend the nomination meeting.

Retirees normally are permitted to attend all membership meetings and consequently were allowed to attend this meeting. Several retirees were present supporting each slate.

During the nominations meeting, two employees of the local union, Lacy Bond and Randy Conrad, took photos as they have regularly done at local union functions. Bond used a digital camera with a sophisticated lens and shot photos of the Team 391 slate members and supporters from a distance. Conrad used a disposable camera to snap photos of the Members First slate members and supporters; Conrad’s less-sophisticated camera required him to move in close to his photo subjects. The activity photographed took place during an open nominations meeting and was not confidential.

Because the protester was not present at the meeting, he had no first-hand knowledge of the meeting events. Regarding the photography, no one who was present at the meeting filed a protest concerning the photographers’ conduct, and none of the witnesses we interviewed cited the photographers’ conduct as disruptive or intimidating. The photographers appear not to have been noticed as the members conducted the business of the meeting.

Investigation showed that, while taking photos of the Members First group, Conrad saw and heard retirees confer with and give advice to slate members concerning events at the meeting. According to witnesses, Conrad intervened and told retirees Frank Bryant and Tommy Burke that

March 29, 2006

they were present at the meeting as guests of the local union and were not permitted to give advice or otherwise assist the slate.

Our investigation showed that at least eight individuals, including a witness provided by Conrad, observed Conrad telling Bryant and Burke that they could not give advice and tried to instruct them not to assist the Members First slate. These witnesses all heard Conrad say something to the effect of “Are you giving advice? You are a guest here and you cannot give instructions.” These witnesses were all seated around the retirees. A witness seated in front of the Members First group and a witness seated three rows away from the group did not notice Conrad speak to anyone, and nothing drew their attention to the Members First group. David Manolis, head of the Members First slate, informed our investigator that Conrad’s comments did not interfere with the nomination process.

Conrad conceded to our investigator that he may have spoken with the retirees during the nomination meeting but denied that he said anything to them other than it was alright for them to be in attendance. Conrad denied that he questioned any retiree about giving advice and denied that he told retirees that they were guests and could not advise members during the nomination process. Conrad admitted that one of the retirees jumped up in his face, but denied saying anything to him that would cause him to react. We do not credit Conrad’s denial; we find that he did as described by the witnesses (including the witness Conrad identified).

As to the allegation that none of the election officials present enforced the *Rules*, our investigation showed the following. The meeting chair, Falik, initially learned of Conrad’s conduct when it was reported by a member at the candidates’ meeting that followed the nominations meeting. At that time, the member was advised to file a protest. In addition, a written acceptance of nomination was initially refused by Falik but after discussion with our investigator, she allowed the written acceptance and nomination. A second nomination was allowed after Falik originally stated that she had not received a written acceptance from the candidate but then discovered that she had. Our investigator intervened to insure that this candidate was kept on the ballot.

### **Analysis**

Article VII, Section 5(a)(4) of the *Rules* provides that “[a] Local Union shall not discriminate or permit discrimination in favor or against any candidate in conjunction with its meetings or otherwise. This requirement shall apply not only to formal presentations by or on behalf of candidates but also to informal campaign activities, such as, for example, comments on candidates during meetings, literature distribution at meetings, literature distribution tables, etc.”

According to Article VII, Section 12 of the *Rules*, “all Union members retain the right to participate in campaign activities, including the right to run for office, to support or oppose any candidate, to aid or campaign for any candidate, and to make personal campaign contributions.”

Neither the picture taking nor Conrad’s statements constitute discrimination against members. The statements were not threatening in nature and were not loud enough to be heard by people in close proximity. According to the head of the Members First slate, the statements did

*Webb*, 2006 ESD 134

March 29, 2006

not interfere with the nomination process. Furthermore, there is no evidence that Conrad was acting under instructions of the local union leadership or the Team 391 Slate.

Therefore, we DENY the protest that alleged that Conrad violated the *Rules*. We also DENY the protest's allegation that the election officials present did not enforce the *Rules*, as the evidence compels the opposite conclusion.

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 are reminded that, absent extraordinary circumstances, no party may rely upon evidence that was not presented to the Office of the Election Supervisor 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  
885 Third Avenue, Suite 1000  
New York, New York 10022  
Fax: (212) 751-4864

Copies of the request for hearing must be served upon the parties, as well as upon the Election Supervisor for the International Brotherhood of Teamsters, 1725 K Street, N.W., Suite 1400, Washington, D.C. 20007-5135, all within the time prescribed above. A copy of the protest must accompany the request for hearing.

Richard W. Mark  
Election Supervisor

cc: Kenneth Conboy  
2006 ESD 135

Webb, 2006 ESD 134  
March 29, 2006

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