

OFFICE OF THE ELECTION SUPERVISOR
for the
INTERNATIONAL BROTHERHOOD OF TEAMSTERS

IN RE: LAWRENCE KRIDLER,)	Protest Decision 2006 ESD 137
)	Issued: March 29, 2006
Protestor.)	OES Case No. P-06-130-020706-SO
_____)	

Lawrence Kridler, a member of GCA 40 of the BLET, 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”). Kridler alleged that he was prevented from being nominated because he received incorrect information concerning the nominations process.

Election Supervisor representative Dolores C. Hall investigated this protest.

Findings of Fact

The nominations meeting for GCA 40 was held February 2, 2006. Protestor Kridler attended the meeting intending to be nominated for delegate; however, he was not nominated for any position. This protest followed.

Kridler alleged that, in mid-January 2006, he was instructed by a person in our office he was unable to identify to use Form 17 (“Request for Eligibility Form”) to verify his eligibility to be nominated for delegate and the eligibility of his nominator and seconder to perform those functions. He also stated that our office instructed him that these Forms 17, if properly prepared and submitted, would serve to nominate him for delegate. Relying on this claimed advice, Kridler and two other members sent Forms 17 to our office.

In response to those forms, we provided verification of Kridler’s eligibility to be nominated and the eligibility of his intended nominator and seconder to perform those functions.

Notice of the GCA 40 nominations meeting was sent by first class mail to each member of the GCA, including Kridler. The notice included instructions on the method of nomination, viz.,

Method of Nomination

Delegate candidates will be nominated and seconded separately from alternate delegate candidates.

All nominations for delegate and alternate delegate shall be at large.

Any member may:

1. Be nominated and seconded orally from the floor by members in good standing other than the nominee; or,
2. Be nominated and seconded in writing by members in good standing, other than the nominee, unable to attend the nominations meeting. A written nomination or second must:

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- Be submitted to the Local Union Secretary-Treasurer so as to be received no later than 5:00 p.m. of the day before the day of the nominations meeting;
 - State whether it is a nomination or a second;
 - Identify the name of the person being nominated or seconded;
 - Identify if the nomination or second is for delegate or alternate delegate;
 - Be signed and have the member's Social Security Number; and,
 - Be treated by the presiding officer as if it had been made from the floor.
3. Nominate or second more than one candidate;
 4. Be nominated or seconded by more than one member;
 5. Decline to be nominated or seconded by a particular person or persons.

Any member who intends to nominate or second a candidate may also request that the Election Supervisor verify his/her eligibility. All such requests must be in writing and must be received by the Election Supervisor no less than five (5) days prior to the nomination meeting.

Acceptance of Nomination

The nominee may accept either:

1. In person at the meeting; or, if absent, in writing.
2. If acceptance is made in writing, the document must be presented to the presiding Local Union officer no later than the time the member is nominated. Any member present at the meeting may produce the written acceptance at the time the absent member is nominated.

No member may accept nomination for both delegate and alternate delegate.

OES representative Patrick Dooner attended the GCA 40 nominations meeting. Prior to the start of the meeting, Dooner spoke with Kridler and advised him how to be nominated. According to Dooner, he reviewed the protestor's Forms 17 and our verifications of eligibility and explained that the documents verified that individuals were eligible to be nominated or to nominate or second; he further explained that the documents did not accomplish Kridler's nomination itself.

As neither Kridler's intended nominator or seconder was in attendance at the nominations meeting, Dooner encouraged Kridler to ask the members who were present to nominate and second him, if he were still interested in such nomination. Dooner also informed Kridler and Mike Sharber, the chair of the meeting, that if Kridler decided to submit the documents, Sharber should accept them to preserve Kridler's right to contend that the documents were sufficient by themselves to effect his nomination. Sharber reviewed the documents and advised Kridler that the forms did not nominate him, but merely verified his eligibility and the eligibility of the members to nominate and second him. Sharber advised the protestor that he could file a protest.

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According to Dooner, the protestor did not speak with anyone at the meeting to request that they nominate him. In addition, Kridler replied "no" when asked if he would like to be nominated for alternate delegate.

The protestor acknowledged to our investigator that he now understands the process but still questions why he was advised that completing Form 17 was all that was necessary. We questioned our Washington D.C. staff responsible for responding to telephone inquiries from members. All denied giving any member advice that Form 17 may be used to nominate or second a candidate for delegate or alternate delegate.

Analysis

Article II, Section 5 of the *Rules* specifies the procedure to be following for nominating candidates for delegate and alternate delegate. Kridler was not nominated in accord with this procedure. The Forms 17 he submitted and our verifications of eligibility were not a substitute for the oral or written nomination procedure set forth in Article II, Section 5.

Kridler misunderstood the nominations process and the role that verification of eligibility plays in that process. However, his misunderstanding was corrected before the start of the nominations meeting, and he chose not to seek nomination and second from anyone present at that meeting.

Accordingly, we DENY this protest.

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
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