

OFFICE OF THE ELECTION SUPERVISOR
for the
INTERNATIONAL BROTHERHOOD OF TEAMSTERS

IN RE: DONALD RAY HARDISON,)	Protest Decision 2006 ESD 168
)	Issued: April 3, 2006
Protestor.)	OES Case No. P-06-182-022706-AT
_____)	

Donald Ray Hardison, member and delegate candidate from Local Union 822, 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*”). The protest alleged that Pepsi Bottling Group, an employer of Local Union 822 members, interfered with the protestor’s right to campaign at employee parking lots at the employer’s Newport News, Virginia facility. The protest also alleged that the employer permitted Vanessa West, a delegate candidate on the opposing slate and business agent for the local union, to campaign at the employer’s facility and that she did so on union-paid time.

Election Supervisor representative Maureen Geraghty investigated this protest.

Findings of Fact

The protest alleged that, on February 24, protestor Hardison and members of his slate entered the employee parking lots of the employer’s facility to campaign. After a few minutes, the employer’s HR manager met them there and directed them to stop campaigning and leave. Hardison explained to the HR manager the limited right of access to employee parking lots that IBT members have under the *Rules* and gave her a copy of the court order enforcing that right. Campaigning continued while the HR manager returned to her office to evaluate what Hardison gave her and to consult with the employer’s counsel. The HR manager returned to the parking lot 30 minutes later, told the campaigners that they were trespassing and directed them to leave. This protest followed.

Our representative contacted the employer’s national counsel, who agreed that the Pepsi Bottling Group will permit campaigners access to parking lots where employees park their vehicles at the Newport News facility and at all Pepsi Bottling Group employee parking lots nationwide where Teamsters members park their vehicle in connection with work. This understanding covers campaign activity in the IBT international officer election through the conclusion of the mail-ballot election for International officers presently scheduled to occur in the fall of 2006.

The protestor and his supporters apparently did not seek to campaign in the Newport News parking lot again, although they received assurances that the employer would not again interfere with their access rights under Article VII, Section 12(e) of the *Rules*. The protestor stated that he and members of his slate had nearly finished campaigning on February 24 and were preparing to depart the premises when the HR manager instructed them to leave.

Accordingly, the portion of the protest regarding access to Pepsi Bottling Group’s Newport News employee parking lots for the purpose of campaigning is **RESOLVED**.

On April 3, 2006, the protestor submitted a written request to withdraw the allegations that Vanessa West improperly campaigned on union-paid time and that the employer improperly granted

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West access to the facility for the purpose of campaigning. Accordingly, this portion of the protest is **WITHDRAWN**.

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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