

OFFICE OF THE ELECTION SUPERVISOR
for the
INTERNATIONAL BROTHERHOOD OF TEAMSTERS

IN RE: BERNADETTE BRADLEY,)	Protest Decision 2006 ESD 170
)	Issued: April 5, 2006
Protestor.)	OES Case No. P-06-243-032706-NE
_____)	

Bernadette Bradley, member of Local Union 327 and delegate candidate on the Eunice Rodriguez Members for Change slate, 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 Local Union 237 violated the *Rules* by providing a mailing list that contained names of 855 members without addresses, by failing to mail ballots to members for which it had no addresses, and in the alternative, by failing to protect against voter fraud by mailing 855 ballot packets to members with no addresses.

Election Supervisor representative Maureen Geraghty investigated this protest.

Findings of Fact

Local Union 237 is one of the largest locals in the IBT and represents approximately 21,000 public employees in the New York City area. The local union does not use TITAN, the IBT’s computerized membership data base, to track its member information. Instead, it maintains its own computerized membership database populated with information supplied by the New York State and City government departments and agencies where the union’s membership works. Some of the agencies and departments send Local Union 237 an updated membership list every week and other departments send it bi-weekly. As a result, the membership database is constantly updated, and the membership population fluctuates with those updates. The database records the membership status and dues payment history of the local union’s members.

On or about March 22, 2006, the Eunice Rodriguez Members for Change slate requested that the local union generate a copy of its mailing list for a campaign mailing. The mailing list forwarded to the mail house designated by the Rodriguez slate contained the names of approximately 855 individuals for whom no addresses were listed. The Haynes slate, comprised of incumbent officers, also requested a list for the same purpose. The mailing list forwarded to the mail house designated by the Haynes slate contained the names of approximately 848 individuals without addresses. Each slate requested its list separately, and the lists were generated by the local union on different dates.

Of the approximately 850 names with no addresses, 450 are employees classified by Local Union 237’s employers as agency fee members. Agency fee members do not possess full membership rights and in most instances have not signed membership cards. A smaller number of individuals listed as agency fee members originally signed membership cards but were dropped from the local union’s membership rolls by employers when they were transferred, promoted, or otherwise had a change in job status. The remaining approximately 400 names without addresses, representing roughly 2% of Local Union 237’s overall membership, are members for whom the local union has been unable to obtain addresses.

Local Union 237 initially receives address information for members in the data supplied by the government employers. If the agency or department fails to provide an address, the local union contacts the employer to obtain that information. As described in its local union election plan, before the mailing of the ballots in the delegate and alternate delegate election, Local Union 237 worked to update its mailing lists and obtain addresses for members and agency fee members. The local union's efforts included contacting the welfare and annuity funds and sending business agents to the worksites to obtain accurate addresses for members. Local Union 237 also published a notice in its regular newsletter and on its website asking members to contact the local union to provide or update the members' mailing addresses.

Ballots were mailed in the delegate and alternate delegate election on March 21, 2006. The mailing label for each ballot package was affixed to the back of the business reply envelope for returning voted ballots, with the label showing through a window on the front of the mailing envelope. The American Arbitration Association ("AAA"), the outside entity Local Union 237 hired to assist it in conducting the election, did not send ballots to individuals on the local union's mailing list with no addresses nor did it prepare ballot packages for those individuals. Instead, AAA pulled from the ballot package assembly process those business reply envelopes printed with a member name but no address, and it secured those envelopes. AAA then attempted to obtain addresses for those individuals so that ballot packets could be mailed to them. Until they were fully addressed for mailing, the envelopes without addresses were held empty.

To obtain addresses for members where that information was lacking, AAA contacted Local Union 237's membership records department and requested the information. To date, AAA has obtained addresses for 88 of the members and has mailed ballots to them.

Analysis

Article VII, Section 7(a) of the *Rules* provides:

Each candidate shall be permitted a reasonable opportunity, equal to that of any other candidate, to have his/her literature distributed by the Union, at the candidate's expense. This means: (a) each candidate is entitled to a reasonable number of mailings, whether or not any candidate makes such request(s); (b) when the Union authorizes distribution of campaign literature on behalf of any candidate, similar distribution under the same conditions and costs shall be made for any other candidate, if requested; and (c) the Union need not distribute any candidate's campaign literature if that candidate is not able and willing to pay for the reasonable cost of such distribution.

The investigation showed that the mailing lists provided to both the Rodriguez and Haynes slates for campaign mailings contained names of approximately 850 individuals without addresses. The difference of seven in the names without addresses on the two mailing lists reflected regular fluctuations in the local union's membership list data and resulted from the lists having been run on different dates. Accordingly, the Rodriguez slate was afforded a reasonable opportunity, equal to that given the Haynes slate, to have its campaign literature distributed by the Union.

Bradley, 2006 ESD 170
April 5, 2006

The investigation further showed that Local Union 237 has undertaken diligent efforts to obtain members' addresses and routinely contacts agencies and departments under its jurisdiction to obtain addresses for members and agency fee members. Further, the local union has posted the official Election Supervisor election notice on all union bulletin boards advising all members, including agency fee members, of the dates and schedule for the mail ballot election. The notice also explains the process for contacting the AAA to request a ballot in the event members do not receive a mail ballot and wish to participate in the election.

The protestor alleged that mailing ballots to approximately 1,000 members without addresses encourages voter fraud because other individuals would be able to mark those ballots and return them without detection. That allegation was not supported. To the contrary, the investigation found that AAA did not mail ballots to members without addresses, or allow those envelopes to be used to send ballots to other unverified addresses. Instead, AAA secured those envelopes printed with names but no addresses and took them out of the ballot package assembly process. As address information was obtained, a mailing label was created, and a complete ballot package was assembled and mailed. There is no evidence of fraud or improper handling of the business reply envelopes containing members' names but no addresses. There is also no evidence that Local Union 237 intentionally deleted members' addresses or intentionally sought to exclude any members from participating in the mail ballot election.

Accordingly, the protest is DENIED.

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 170

Bradley, 2006 ESD 170
April 5, 2006

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