

OFFICE OF THE ELECTION SUPERVISOR
for the
INTERNATIONAL BROTHERHOOD OF TEAMSTERS

IN RE: RICHARD KENT, JOHN)	Protest Decision 2006 ESD 179
VANCIL & JOHN JACKSON)	Issued: April 12, 2006
Protestors.)	OES Case Nos. P-06-203-030706-GP
_____)		

Richard Kent, John Vancil, and John C. Jackson, members of Local Union 17, filed simultaneous and substantially identical pre-election protests pursuant to Article XIII, Section 2(b) of the Rules for the 2005-2006 IBT International Union Delegate and Officer Election (“*Rules*”). The protests alleged that Earl P. Williams, candidate for delegate to the 2006 IBT Convention, and his nominator and seconder failed to provide their Social Security numbers on their nomination forms, in violation of the *Rules*.

Election Supervisor representative Mary Ann Campbell investigated this protest.

Findings of Fact

On March 2, 2006, Local Union 17 conducted its nominations meeting for the delegate and alternate delegate election. Earl P. Williams was nominated for delegate by Joe Hackl, and seconded by Terry Osborn. The nomination, second, and acceptance were all done in writing because all three individuals were unable to attend the meeting in person. The protestors alleged that the written nomination, second and acceptance forms were deficient because none included the Social Security numbers for the nominator, seconder, and the nominee.

Williams admitted to our investigator that he typed the written nomination, second and acceptance letters and through oversight did not include the Social Security numbers on the letters. Williams delivered all three letters to the local union on February 28, two days before the nominations meeting. Williams learned of his omission from John Vancil, one of the protestors, on March 4, two days after the nominations meeting. He promptly redrafted all three letters, with the Social Security numbers included, and submitted them to Duane Grove, local union president, on March 6.

Analysis

Article II, Section 5(f) of the *Rules* provides:

Any member eligible to nominate or second a nomination may do so by a writing submitted to the Local Union Secretary-Treasurer. A written nomination or second must be received by the Local Union Secretary-Treasurer no later than 5 p.m. of the day immediately prior to the day of the relevant nomination meeting. The writing shall state whether it is a nomination or a second, the name of the member being nominated or seconded and whether the nomination or second is for delegate or alternate delegate. It shall be signed by the member submitting the nomination or second and shall contain his/her Social Security number. At the nomination meeting, the presiding Local Union officer shall announce and treat the written nomination or second as if it had been made from the floor of such meeting.

April 12, 2006

Similarly, a candidate's written acceptance of nomination "must be presented to the presiding Local Union officer no later than the time the member is nominated." Article II, Section 5(h). In contrast with Article II, Section 5(f), this provision does not require that a written acceptance include the candidate's Social Security number.

The issue this protest presents is whether the omission of Social Security numbers on written nomination, second and acceptance of nomination forms will render the nomination invalid and require the candidate's removal from the ballot. We find that it does not; accordingly, we DENY the protest.

We reach this conclusion even though Williams' nomination did not comply with the express terms of Article II, Section 5(f), in that the written nomination and second received by the local union before the deadline established by that provision did not list the nominator's and second's Social Security numbers. In *DiDonato*, 2006 ESD 78 (February 9, 2006), we rejected a challenge to candidates whose written nominations forms submitted in advance of the nominations meeting included only the last 4 digits of the relevant Social Security numbers. There, the full numbers were supplied a day after the nominations meeting.

Article I of the *Rules* states that the Election Officer is charged with "the conduct of fair, honest, open and informed elections," and has the authority "to take all necessary actions in supervising the election process to insure fair, honest, open and informed elections." Measured against the scope of this authority, it cannot be said that it would serve the underlying purpose of the *Rules* or the Consent Decree if Williams were to be barred from running for delegate. While there is no question that the written nominations that were tendered should have included Social Security numbers, there is no indication of any attempt by the nominee or his supporters to undermine the nomination of delegates in Local Union 17. See *Slawson*, 2001 EAD 81 (January 17, 2001). In such a situation, a member otherwise properly entitled to stand as a candidate should not be disqualified.

We find that Williams corrected the omissions in the written nominations forms promptly, and the technical *Rules* violation will not serve to bar his candidacy.

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

Kent, Vancil & Jackson, 2006 ESD 179

April 12, 2006

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 179

Kent, Vancil & Jackson, 2006 ESD 179
April 12, 2006

DISTRIBUTION LIST (BY EMAIL UNLESS OTHERWISE SPECIFIED):

Bradley T. Raymond, General Counsel
International Brotherhood of Teamsters
25 Louisiana Avenue, NW
Washington, DC 20001-2198
braymond@teamster.org

Sarah Riger, Staff Attorney
International Brotherhood of Teamsters
25 Louisiana Avenue, NW
Washington, DC 20001-2198
sriger@teamster.org

David J. Hoffa, Esq.
Hoffa 2006
30300 Northwestern Highway, Suite 324
Farmington Hills, MI 48834
David@hoffapllc.com

Barbara Harvey
645 Griswold Street
Suite 3060
Detroit, MI 48226
blmharvey@sbcglobal.net

Ken Paff
Teamsters for a Democratic Union
P.O. Box 10128
Detroit, MI 48210
ken@tdu.org

Daniel E. Clifton
Lewis, Clifton & Nikolaidis, P.C.
275 Seventh Avenue, Suite 2300
New York, NY 10001
dclifton@lcnlaw.com

Stephen Ostrach
1863 Pioneer Parkway East, #217
Springfield, OR 97477-3907
saostrach@gmail.com

Richard Kent
18450 E. Colgate Circle
Aurora, CO 80013
bcrkent@comcast.net

John Vancil
2208 Brehm Road
Berthoud, CO 80513
john.vancil@hotmail.com

John Jackson
16393 East Kentucky Avenue
Aurora, CO 80017
Truckdryver@comcast.net

Earl Williams
P.O. Box 184
Central City, CO 80427

Joe Hackl
5458 S. Gibraltar Court
Cennential, CO 80015

Terry Osborne
7931 Estes Street
Littleton, CO 80123

Michael Simeone, Secretary-Treasurer
Teamsters Local Union 17
3245 Eliot Street
Denver, CO 80211

Mary Ann Campbell
13859 State Road, E.
DeSoto, MO 63020
scdennis@aol.com

Jeffrey Ellison
510 Highland Avenue, #325
Milford, MI 48381
EllisonEsq@aol.com