

OFFICE OF THE ELECTION SUPERVISOR
for the
INTERNATIONAL BROTHERHOOD OF TEAMSTERS

IN RE: DAVID BARKER,)	Protest Decision 2006 ESD 243
)	Issued: May 15, 2006
Protestor.)	OES Case No. P-06-222-031506-MW
_____)	

David Barker, a member of Local Union 325 and delegate candidate on the Taking Action 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 the local union a) failed to post the notice of nominations meeting results on all union bulletin boards and b) failed to advise all candidates of the procedures for distribution of campaign literature.

Election Supervisor representatives William C. Broberg and Joe F. Childers investigated the protest.

Findings of Fact and Analysis

1. Alleged failure to post notice of nominations meeting results.

The protest alleged that the notice of nominations meeting results was not posted on the union bulletin board at State Line Services in Roscoe, Illinois. Steve Cabrera, a candidate for alternate delegate on the Taking Action slate, said he went to State Line after the nominations meeting to campaign, reviewed the bulletin board, and found that the required notice was not posted.

Richard Thompson, local union secretary-treasurer, disputed this point. He stated that he posted the notice at State Line personally because it is close to his home. He filed an affidavit of posting with our office attesting to this action. Jack Terpstra, owner of State Line, corroborated Thompson’s statement. Terpstra said he reviewed all postings and recalled seeing the nominations meeting results posting. Following the filing of this protest, Terpstra told our investigator that he verified that the posting had been made with the steward at the worksite.

State Line employs 4 members of Local Union 325.

We find the notice of nominations meeting results was posted at State Line Services and, accordingly, DENY this aspect of the protest.

2. Alleged failure to state policy regarding distribution of campaign literature.

The protest alleged that the local union failed to advise all candidates of the procedures for complying with candidates’ requests for mailing of campaign literature, as required by Article VII, Section 7(a)(4)(g) of the *Rules*. Barker stated that at the nominations meeting held February 12, 2006, he requested the written procedures, and secretary-treasurer Thompson replied that the local union did not yet have written procedures but would adopt them soon. Barker subsequently received a letter dated March 10, 2006 from local union president Steve Lindquist, enclosing the procedures.

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Thompson agreed that he told Barker at the nominations meeting that the literature distribution policy was not yet written. However, he stated that he told Barker the policy would mirror the one the local union had used for the officers election and discussed the details of that policy with Barker. Thompson asked Barker if he wanted a copy of the policy once it was completed; Barker replied that he would submit a written request for several things, including the literature distribution policy, shortly.

Thompson stated that the policy was in place and posted on the union bulletin board at the local union office the day after the nominations meeting. However, Barker did not submit his written request until he mailed a letter to Thompson dated March 5, three weeks after the nominations meeting. The letter requested that the literature distribution policy and other specified items be supplied within 5 days. Thompson was absent from the local union when Barker's letter arrived, so local union president Lindquist responded by letter dated March 10, enclosing the policy. Barker conducted a membership mailing pursuant to the policy on March 17.

We find that the procedures were published and accessible to all candidates as of the day following the nominations meeting, and that Barker was supplied with the policy reasonably promptly following receipt of his written request. Accordingly, we DENY this aspect of the 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 Office of the Election Supervisor for the International Brotherhood of Teamsters, 1725 K Street, Suite 1400, N.W., Washington, D.C. 20006, 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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DISTRIBUTION LIST (BY EMAIL UNLESS OTHERWISE SPECIFIED):

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