

**OFFICE OF THE ELECTION SUPERVISOR**  
**for the**  
**INTERNATIONAL BROTHERHOOD OF TEAMSTERS**

<b>IN RE: THOMAS BOOTH,</b>	)	Protest Decision 2006 ESD 270
	)	Issued: May 24, 2006
<b>Protestor.</b>	)	OES Case No. P-06-117-020106-FW
_____	)	

Thomas Booth, member and delegate candidate from Local Union 896, 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 Miller Brewing interfered with Booth’s efforts to campaign in its employee parking lot.

Election Supervisor representative Michael Four investigated this protest.

**Findings of Fact and Analysis**

The protest alleged that on January 31, 2006, Booth traveled to the Miller Brewing facility in Irwindale, California to distribute leaflets in support of his delegate candidacy. The protest stated:

I checked in with the security office, security guard “Felix” was present. I informed the plant guard of my identification and my intent. I presented my California driver’s license, my Anheuser-Busch identification badge, my campaign flyer, and the local 896 posting showing me to be a delegate candidate.

The security guard called HR rep Mr. Salazar and informed him of my intentions to handbill employees as they entered and exited the plant from the parking lot. Based on his communication with Mr. Salazar, I was told by security guard Felix not to handbill and seek permission, in advance, for some time in the future. I left the premises and called Mr. Salazar from a location near the plant. Mr. Salazar did not answer his phone nor did he act upon my request, via phone message, for a return call.

In response to the protest filed February 1, our investigator contacted Miller’s HR representatives that same day. Salazar, Miller’s employee relations manager, and Scott Jensen, the corporate labor relations manager, told our investigator in a conference call that they were unfamiliar with the limited right of parking lot access under the *Rules*. Our investigator forwarded the *Rules* provision and the Order of the United States District Court enforcing the provision, and he explained the purpose, history, and enforcement procedure for the provision.

Booth contacted Salazar on February 3 and stated that he intended to campaign on February 7 at evening shift change (approximately 9:45 p.m.). He did so without interference from Miller personnel or security.

The *Rules* permit a candidate for delegate or alternate delegate and any member of the candidate’s local union to distribute literature and otherwise solicit support in connection with such candidacy in any parking lot used by that local union’s members to park their vehicles in connection with their employment.

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(e) Subject to the limitations in this Subsection, (i) a candidate for delegate or alternate delegate and any member of the candidate's Local Union may distribute literature and/or otherwise solicit support in connection with such candidacy in any parking lot used by that Local Union's members to park their vehicles in connection with their employment; (ii) each member of a candidate's Local Union has the reciprocal right to receive such literature and/or solicitation of support from such candidate or candidate's advocate; . . . .

The foregoing rights are available only in connection with campaigning during the 2005-2006 IBT International Union Delegate and Officer Election conducted pursuant to the Consent Order and only during hours when the parking lot is normally open to employees. The rights guaranteed in this Subsection are not available to an employee on working time, may not be exercised among employees who are on working time and do not extend to campaigning which would materially interfere with the normal business activities of the employer. An employer may require reasonable identification to assure that a person seeking access to an employee parking lot pursuant to this rule is a candidate or other Union member entitled to such access. Nothing in this Subsection shall entitle any candidate or other Union member to access to any other part of premises owned, leased operated or used by an employer or to access to a parking lot for purposes or under circumstances other than as set forth herein.

*Rules, Article VII, Section 12(e).*

On the facts presented here, we deem this protest RESOLVED.

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. 20006-1416, 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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