

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

<b>IN RE: MICHAEL BENNETT,</b>	)	Protest Decision 2011 ESD 77
	)	Issued: January 20, 2011
<b>Protestor.</b>	)	OES Case Nos. P-083-011811-MW
_____	)	

Michael Bennett, member of Local 705, filed a pre-election protest pursuant to Article XIII, Section 2(b) of the Rules for the 2010-2011 IBT International Union Delegate and Officer Election (“*Rules*”). The protest alleged that written acceptances of nomination were not accepted as such, in violation of the *Rules*.

**Findings of Fact and Analysis**

Local Union 705 will elect 21 delegates and 4 alternate delegates to the IBT convention. The local union’s nominations meeting took place on Sunday, January 16, 2011. On Friday, January 14, before the close of business, Howard Moore submitted 4 pages to Steve Poczowski, principal officer of the local union, and to OES. Under a heading that read “Delegate Election Nomination Forms,” the first page stated that the attached 3 sheets were nomination forms “to be announced from the floor at the January 16, 2011 general and nomination meeting.”

Pages 2 and 3 of the submission were spreadsheets, each titled “Delegate Nominations Local 705,” that listed information in 7 columns. The first two columns listed the name and last 4 digits of the nominator’s Social Security number. For all nominations, the nominator was the same person. The third and fourth columns listed the name and last 4 digits of the SSN for the candidate. The fifth and sixth columns listed the name and last 4 digits of the SSN for the person who seconded the nomination. As with the nominator, the seconder was the same person for all nominations. The final column was labeled “Accepted;” for each candidate, the word “Yes” appeared in that column. The handwritten names and signatures of the nominator and seconder and the handwritten last 4 digits of their SSNs were affixed to the bottom of each sheet.

The fourth and final sheet of the submission was titled “Alternate Delegate Nominations Local 705,” and listed 4 names in the candidate column. As with the delegate nomination sheets, the fourth page listed the names of the nominator and seconder, the names of the candidates, the last 4 digits of the SSN for all persons listed, and the word “Yes” in the column headed “Accepted.”

Nominations for delegates and alternate delegates may be made in writing. Article II, Section 5(f) provides the following:

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.

January 20, 2011

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 the last four digits of 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.

The 3-page spreadsheet met each of the requirements of this provision. Thus, the submission was submitted timely, each page indicated that it was to serve both as a nomination and a second, the pages identified the candidates and indicated the position for which they were nominated, and each page was signed by the nominator and the seconder and listed the last 4 digits of the SSN for those persons.

The sheets were presented to the person presiding at the meeting and were accepted as nominations and seconds for 21 delegate candidates and 4 alternate delegate candidates.

However, the intention was that the sheets also serve as written acceptance of the nominations as well. Written acceptance is governed by Article II, Section 5(h), which reads:

To be eligible for nomination, a member must be nominated and seconded by a member in good standing, each with his/her dues paid through the month prior to the nominations meeting; the member must be eligible to be nominated, pursuant to Article VI of these Rules; and the member must accept his/her nomination at the time made either in person, or, if absent, in writing. If acceptance is made in writing, the document must be presented to the presiding Local Union officer no later than the time the member is nominated.

On the subject of acceptance of nomination, the sheets merely stated “Yes” in the “Accepted” column. Where the rule states that “the member” must accept the nomination, these sheets are insufficient for that purpose because they provide no verification that each member being nominated has given his/her assent to the nomination or even is aware of it.

Written acceptance is intended to permit a candidate who is unable to attend the nominations meeting to participate in the electoral process. Were the candidate present at the meeting, he/she would be required to orally state his/her name and acceptance of the nomination. The *Rules* permit a writing from “the member” to substitute for the oral statement, but the writing must evidence that it is indeed from the member. The spreadsheets in this case fail to satisfy that element because they contain nothing indicating that the members identified as candidates adopted the “Yes” statement in the acceptance column.

Investigation showed that some persons listed on the spreadsheets, including some candidates and protestor Bennett, were present at the nominations meeting and were told that the spreadsheets were insufficient to establish acceptance of nomination for the candidates listed. Despite this information, those candidates present did not orally state at the meeting that they accepted the nominations. Nor did those candidates take the available opportunity to indicate

***Bennett***, 2011 ESD 77

January 20, 2011

their acceptance on the spreadsheet or by submitting a separate written acceptance. All of those options were available to the candidates present at the nomination meeting.

For these reasons, we find that, although properly nominated and seconded in writing, the nominated candidates did not accept orally or in writing. Lacking any proper acceptance, their nominations are a nullity. Accordingly, we DENY this 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, NY 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, 1801 K Street, N.W., Suite 421 L, 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  
*2011 ESD 77*

**Bennett**, 2011 ESD 77

January 20, 2011

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