

OFFICE OF THE ELECTION ADMINISTRATOR
for the
INTERNATIONAL BROTHERHOOD OF TEAMSTERS

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| IN RE: WILLIAM WILLIS, |) | Protest Decision 2000 EAD 56 |
| |) | Issued: December 6, 2000 |
| Protestor. |) | OEA Case Nos. PR110101MW & |
| |) | PR110602MW |
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William Willis, a member of Local 26, filed a pre-election protest pursuant to Article XIII, Section 2(b) of the Rules for the 2000-2001 IBT International Union Delegate and Officer Election (“*Rules*”) against Local 26. The protester alleges that in early November, 2000, Local 26 violated Article VII, Section 7 of the *Rules* by providing assistance to other delegate candidates for local union-assisted mailings at candidate expense while failing to provide the same opportunity to the protestor’s delegate candidate slate.

Election Administrator representative Lisa Taylor investigated the protest.

Article VII, Section 2 of the *Rules* provides that each candidate for delegate, alternate delegate or International office “has the right, once within thirty (30) days prior to the casting of ballots in any election in which he/she is a candidate, to inspect a list containing the last known names and addresses of all members of the Union who are to participate in such election. The right of inspection does not include the right to copy the list but does include the right to compare it with a personal list of members. However, if the Union permits any candidate to copy the list, all candidates must be notified of this and provided the same opportunity. The Union shall not, in any way, discriminate in favor of or against any candidate with respect to access or use of the membership list.”

Article VII, Section 7 of the *Rules* separately provides, inter alia, that “[e]ach 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 other 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 costs of such distribution. Any request for distribution of literature shall be made by the candidate to the Secretary-Treasurer of the Union in writing.”

These provisions govern the resolution of this protest.

Findings of Fact

Protestor Willis is a member of one of three delegate slates in IBT Local 26. Willis' protests allege that his delegate slate was denied access to "mailing lists" after its members declared their candidacy, while at the same time Local 26 gave mailing labels to an opposing slate without notifying the protestor's slate that this service was available.

Specifically, Willis alleges that at a local 26 general membership meeting on September 16, 2000, Local 26 president Bill Bounds (a member of one of the three Local 26 delegate slates) stated that access to the local union's membership list would not be provided to candidates until after the local's delegate nomination meeting, which was scheduled for November 4, 2000, 30 days prior to the mailing of Local 26's delegate ballots on December 4, 2000.

On October 11, 2000, Local 26 member Gary Collett, the leader of the third Local 26 delegate slate, filed a protest against Local 26 alleging that Local 26 was improperly interfering with his slate's right to make a candidate mailing at the slate's own expense by charging an unjustifiable large amount for the cost of the mailing. Collett stated in his protest that he "intend[ed] to use an outside mailing house or volunteers at the union office to conduct the bulk-rate mailing ... consistent with the past practice of [sic] all delegate elections conducted under the consent decree since 1989." On October 27, 2000, Collett withdrew his protest, because Local 26 had agreed to facilitate the mailing of Collett's campaign materials at his slate's expense.

Willis received the Collett slate campaign mailing in early November 2000. He then contacted Local 26 president Bounds and asked why Collett had been able to make this mailing and he had not. Bounds explained to Willis that candidate Collett filed a protest with the Election Administrator and in response Local 26 enabled Collett to do his mailing. No later than November 14, 2000, Local 26 afforded Willis the same campaign mailing opportunity it had provided to Collett. Willis also admits that before contacting Bounds in early November he made no written requests for assistance with his campaign mailing. Willis claims that his failure to make such a written request was due to Bound's statement at the local's September membership meeting that candidates would not receive access to membership mailing lists until after the local's November 4, 2000 nomination meeting. Bounds claims that Local 26 immediately responded to Willis' request for labels and he does not understand why this protest was filed. Willis claims that due to Local 26's conduct towards his slate, he was prejudiced by allowing his slate's opponents to "get the jump on him" by making two (2) mailings while his slate has only had one.

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Analysis

There is no violation of Article VII, Section 7 of the *Rules* here. That provision requires that candidates invoke their right to make local union assisted mailings at candidate expense in writing. Willis did not do so.

Willis can not excuse his failure to make a written request for his mailing by Bounds alleged statement at that September membership meeting that candidate would not be provided the right to inspect the local's mailing list until November 4, 2000, thirty (30) days prior to the mailing of Local 26's delegate ballots. Bounds alleged statement to this effect is consistent with the provisions of Article VII, Section 2 of the *Rules*.

Moreover, the protestor's slate has been provided with assistance by Local 26 in the completion of his Article VII, Section 7 campaign mailing to the membership, and there is no evidence that further mailings at the protestor's expense have been disallowed.

For the foregoing reasons, this 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 in any such appeal upon evidence that was not presented to the Office of the Election Administrator. 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
Suite 1000
885 Third Avenue
New York, New York 10022
Fax: 212-751-4864

Copies of the request for hearing must be served upon all other parties, as well as upon the Election Administrator for the International Brotherhood of Teamsters, c/o International Brotherhood of Teamsters, 727 15th Street, NW, 10th Floor, Washington, DC 20005 (fax: 202.454.1501), all within the time period prescribed above. A copy of the protest must accompany the request for hearing.

William A. Wertheimer, Jr.
William A. Wertheimer, Jr.
Election Administrator

cc: Kenneth Conboy
Dennis Sarsany
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