

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

| | | |
|-------------------------------|---|---------------------------------|
| IN RE: THOMAS BENNETT, |) | Protest Decision 2006 ESD 99 |
| |) | Issued: February 24, 2006 |
| Protestor. |) | OES Case No. P-06-110-020306-MW |
| _____ |) | |

Thomas Bennett, a member of Local Union 200, 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*”). He alleged that the Buban-Connell slate improperly used union resources when a supporter of the slate filed a pre-election election protest.

Election Supervisor representatives Joe Childers investigated this protest.

Findings of Fact

James Lyons filed the protest in OES Case No. P-06-098-013006-MW via email. In that protest, Lyons identified himself as “a supporter of the Buban/Connell Strong Contracts, Good Pensions Delegate Slate.” The address Lyons listed on the protest was that of Local Union 200.

Protestor Bennett alleged that Lyons’ use of the local union hall address on his protest constituted an impermissible use of union resources to support the Buban-Connell slate.

Analysis

Article VII, Sections 12(b) and (c) prohibit use of union funds and resources to support or oppose a candidate. However, filing a protest “is protected, and does not constitute support for a candidate or campaigning under the *Rules*.” *Reyes*, 2000 EAD 28 (September 27, 2000) (use of union fax machine to file a protest no violation); *Keiffer*, P360 (March 19, 1996) (same). The right to file a protest is paramount and may not be restricted in any way. *Koles*, P487 (March 4, 1996) (use by local union officer of local union’s fax machine and other equipment as well as secretarial time does not violate the *Rules*).

Under this precedent, Lyons’ use of the local union’s address as the place where he could be contacted with respect to the protest he filed was permissible.

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, New York 10022

Bennett, 2006 ESD 99
February 24, 2006

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. 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 99

Bennett, 2006 ESD 99
February 24, 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@hoffaplhc.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

Judith Brown Chomsky
P.O. Box 29726
Elkins Park, PA 19027
jchomsky@igc.org

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

Thomas Bennett
337 Rubicon
Neosho, WI 53059

Tim Buban, Secretary-Treasurer
Local Union 200
6200 Bluemound Road
Milwaukee, WI 53213

Jim Lyons
Local Union 200
6200 Bluemound Road
Milwaukee, WI 53213
local200_jlyons@execpc.com

Joe F. Childers
201 West Short Street, Suite 310
Lexington, KY 40507
childerslaw@yahoo.com

William Broberg
1108 Fincastle Road
Lexington, KY 40502
wcbroberg@aol.com

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