OFFICE OF THE ELECTION SUPERVISOR for the INTERNATIONAL BROTHERHOOD OF TEAMSTERS

IN RE: JEFF DUNCAN,)	Protest Decision 2006 ESD 198
)	Issued: April 20, 2006
Protestor.)	OES Case No. P-06-068-011706-MW
)	

Jeff Duncan, member and alternate delegate candidate of Local Union 614, 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 principal officer of the local union, Earl Walker, discriminated against him by filing a protest under the Rules challenging Duncan=s eligibility to run for alternate delegate in the local union delegate and alternate delegate election.

Election Supervisor representative Joe Childers investigated this protest.

Findings of Fact

The protester alleged Earl Walker challenged his eligibility solely because he was a member of the slate opposing Walker=s slate. He complained that Walker failed to challenge the eligibility of Karen Lankford, a member of Walker=s slate, even though Lankford was laid off from employment at the same time as Duncan, the stated reason for Walker=s protest challenging Duncan=s eligibility.

Duncan was formerly a business agent at Local Union 614 and a trustee of the local union for 22 years. He was laid off when Walker assumed the presidency of Local Union 614 at the end of 2004. In 2005, Duncan returned to work as a concrete truck driver for Nagy Concrete. While on layoff, Duncan kept his dues paid. We found Duncan eligible in 2006 ESD 55 (January 26, 2006), *aff'd* 06 EAM 9 (February 14, 2006).

Duncan protested Lankford's eligibility in a protest filed 4 days after Walker challenged Duncan's eligibility. We denied Duncan's protest in 2006 ESD 57 (January 26, 2006). Duncan did not appeal.

Analysis

Article XIII, Section 1 of the *Rules* specifically states "[a]ny member ... may file a protest with the Election Supervisor alleging noncompliance with these *Rules*." In accordance with this section of the *Rules*, Earl Walker filed a pre-election protest challenging Jeff Duncan=s eligibility, as was his right. That Walker did not at the same time challenge the eligibility of a member of his own slate is of no consequence.

Accordingly, we DENY 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:

Duncan, 2006 ESD 198 April 20, 2006

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 2006 ESD 198

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