

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

<b>IN RE: ED MICHAEL,</b>	)	Protest Decision 2006 ESD 373
	)	Issued: October 17, 2006
<b>Protestor.</b>	)	OES Case No. P-06-349-101206-HQ
_____	)	

Ed Michael, president of BLET Division 724, 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 Leedham slate campaign literature was removed from a general-purpose bulletin board at the Union Pacific railroad facility at Salem, Illinois, in violation of the *Rules*.

Election Supervisor representative Steven R. Newmark investigated this protest.

**Findings of Fact and Analysis**

Ed Michael alleged he was not allowed to post campaign material on a general-use board at the Salem, Illinois Union Pacific facility. Article VII, Section 12(d) of the *Rules* states that, “[n]o restrictions shall be placed upon candidates’ or members’ preexisting rights to use employer or Union bulletin boards for campaign publicity.”

Dan Witthaus, the superintendent of transportation services for Union Pacific, told our investigator that there were several bulletin boards at the facility in question. He stated there was one bulletin board for each of the unions (including the BLET) that represents railroad employees. In addition, he stated there was a general-purpose bulletin board for posting notices such as births, garage sales, and other miscellaneous information. According to Witthaus, this second board has never been used to promote candidates in any of the union elections at Union Pacific. Witthaus assured our investigator that Union Pacific would not remove or otherwise interfere with campaign literature posted on the designated BLET bulletin board. Michael has agreed to use said board to post flyers in the future.

We note, however, that where past practice establishes that an employee bulletin board is used for general purposes, the employer may not prevent the posting of campaign literature there because the bulletin board may be used for any purpose, including a campaign purpose. *Leedham Slate*, 2006 ESD 301 (July 5, 2006). Accordingly, although Michael has agreed to post his campaign material on the BLET bulletin board, he has the right under the *Rules* to post the literature on the general-purpose board.

Accordingly, 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

*Michael*, 2006 ESD 373  
October 17, 2006

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  
2006 ESD 373

*Michael*, 2006 ESD 373

October 17, 2006

**DISTRIBUTION LIST (BY EMAIL UNLESS OTHERWISE SPECIFIED):**

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