

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

<b>IN RE: DAVID CORBITT,</b>	)	Protest Decision 2011 ESD 215
	)	Issued: April 17, 2011
<b>Protestor.</b>	)	OES Case No. P-210-030911-AT
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David Corbitt, member of Local Union 82, 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 deficiencies in the local union election plan, failure to post a required notice timely, and failure to list all worksites under the local union’s jurisdiction.

Election Supervisor representative Peter M. Geraghty investigated this protest.

**Findings of Fact and Analysis**

Local Union 82 was placed under emergency trusteeship on September 27, 2010. On the same date, General President Hoffa appointed Denis Taylor as Trustee. Taylor serves as president of Local Union 355 in Baltimore, Maryland, in addition to his duties as Trustee of Local Union 82.

Local unions in trusteeship are permitted by Article III, Section 5(a)(3) of the IBT constitution to send delegates to the IBT convention provided those delegates are elected by secret ballot. Based on its membership size, Local Union 82 is entitled to one delegate to the IBT convention. At the nominations meeting held February 20, 2011, Leif Thornton, Kevin McNiff, and Joseph Previti were nominated for this position.

Ballots were mailed March 23 and were counted April 15. The protest here was filed March 9.

**Allegation concerning lack of signature on local union election plan**

Article II, Section 4 of the *Rules* required Local Union 82 to submit a proposed local union election plan by September 30, 2010. The protest alleged that the plan submitted on October 7, 2010 was not signed.

Investigation showed that the local union timely submitted its proposed plan on September 13, 2010. OES requested changes in the proposal, and a revised plan was submitted on October 7. Both plans carried electronic signatures.

Article II, Section 4(d) permitted interested members to comment on the proposed election plan within fifteen days of its submission to the Election Supervisor. Protestor Corbitt did not do so. Article XIII, Section 1 permitted any member alleging noncompliance with the *Rules* to file a protest. Section 2(b) of the same article required that the member file within two working days of the date he became aware or reasonably should have become aware of the action protested; failure to do so timely serves as waiver of the right to protest. Corbitt did not file a protest concerning the

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plan until March 9, 2011. Accordingly, this aspect of his protest is untimely filed under Article XIII, Section 2(b), and we DENY it on that basis.

*Allegation concerning failure to post notice of nominations meeting results*

Protestor Corbitt alleged that Trustee Taylor failed to post the notice of nominations meeting results timely. Investigation showed that the notice was first sent to shop stewards for posting on March 2, 2011. Posting of the nominations meeting results was required within five days following the February 20 nominations meeting, or by February 25, 2011. However, Corbitt knew or should have that the notice of nominations meeting results was not posted by February 25, as required. Accordingly, he waived his right to protest by waiting until March 9 to file, and we DENY this aspect of his protest on that basis.

A similar allegation was raised in *Barry*, 2011 ESD 214 (April 15, 2011). There, although we denied the protest as untimely filed, we nevertheless directed Trustee Taylor to submit affidavits of posting for all required notices within five days of the date of that decision.

*Allegation concerning incomplete worksite list*

The protest also alleged that the worksite list attached to the local union plan was incomplete and inaccurate. The list provided with the approved plan included 16 employers; the protestor alleged that 13 additional employers should have been included on the list. In addition, the protestor alleged that Trustee Taylor failed to identify the exposition centers, racetracks, and hotels where local union members employed in the trade show division work. Finally, the protestor alleged that Taylor did not provide worksite information for employers that have signed project labor agreements with Local Union 82.

Taylor told our investigator that he included the appropriate worksites on the lists submitted with the local union election plan. He said he listed every employer that had a “brick and mortar” worksite that employed Local Union 82 members in the area. He did not include trade show locations such as the Boston Convention and Exposition Center and area hotels on the worksite list because members work at those sites only during trade shows, and he reasoned it would not be useful to identify a location as a worksite where members work only on the limited occasions when a show is ongoing.

Likewise, Taylor said he did not list companies with project labor agreements on the worksite list for the same reason. Local Union 82 represents members who work in short-term trade and convention shows and expos. Some of the contracts covering such short term jobs are called project labor agreements and by their nature are short term, lasting several days or less.

This protest concerned the accuracy and completeness of a local union election plan submitted in October 2010 and approved in December 2010. As such, the March 9 filing of the protest was well out of time, and we DENY it on that basis.

Nonetheless, Taylor agreed in mid-March 2011 to provide all candidates written notice when Local Union 82 entered into project labor agreements during the election cycle so that candidates might campaign at those sites. Taylor further agreed that, in the event there was insufficient time to provide notice by mail, the local union would contact candidates by telephone to

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provide the requested information. To the extent that the protest also sought a current worksite list, including worksites covered by existing and future project labor agreements, we deem it RESOLVED by Taylor's agreement to provide that information.

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 215

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