

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

IN RE: RICHARD GALVAN,)	Protest Decision 2016 ESD 172
)	Issued: April 13, 2016
Protestor.)	OES Case No. P-239-032316-FW
_____)	

Richard Galvan, member of Local Union 396 and candidate for delegate and for International office, filed a pre-election protest pursuant to Article XIII, Section 2(b) of the Rules for the 2015-2016 IBT International Union Delegate and Officer Election (“*Rules*”). The protest alleged, first, that a Local Union 396 business agent and a UPS manager violated the *Rules* by the way they addressed Galvan and, second, that UPS impermissibly supported the Herrera slate by permitting display of a Herrera campaign placard in a UPS truck.

Election Supervisor representative Denise Ventura investigated this protest.

Findings of Fact and Analysis

Local Union 396’s election plan provided for the election of twelve delegates and fourteen alternate delegates to the IBT convention. The January 31, 2016 nominations meeting resulted in a contested election between two full slates and no unaffiliated candidates. Protestor Galvan led the Galvan Local 396 Teamsters United slate; local union principal officer Ron Herrera led the Ron Herrera Local 396 slate.

Galvan is employed as a feeder driver for UPS. On March 22, 2016 while at work performing his duties, Galvan encountered local union business agent Sam Cornejo and UPS labor relations manager Bob Dunkel. According to Galvan, Cornejo approached Galvan aggressively and said, “Fuck you!” Galvan attributed Cornejo’s conduct to Galvan’s candidacy in opposition to Herrera, the local union’s principal officer and Cornejo’s boss. Galvan stated that in response to Cornejo’s aggressive behavior, Dunkel told Galvan and Cornejo to “move along.” Galvan argues in the protest that Dunkel’s directive should have been addressed only to Cornejo, who according to Galvan was the aggressor, and that Dunkel displayed employer bias in support of the Herrera slate by telling both Cornejo and Galvan to “move along.”

Cornejo denied to our investigator telling Galvan, “Fuck you!” We credit Galvan on this point, in part because of Dunkel’s response. Investigation further showed, however, that Galvan called Cornejo a “punk,” a statement Galvan conceded to our investigator.

Article VII, Section 12(g) prohibits threats and retaliation for activity protected by the *Rules*. We do not find a prohibited threat or retaliation on the facts presented here, as there was neither touching nor menacing behavior on Cornejo’s part sufficient to present a palpable threat to Galvan of imminent harm. *Gutierrez*, 2011 ESD 239 (April 27, 2011). Further, Galvan’s verbal participation showed he was not intimidated by Cornejo’s words. Dunkel’s response directing that the two desist from their behavior toward each other was a mild prescriptive for maintaining order that was appropriate under the circumstances and did not display employer bias in favor of or against any candidate. Accordingly, we find no *Rules* violation in this incident and DENY this aspect of the protest.

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The second aspect of Galvan's protest alleged employer support for the Herrera slate by display of a campaign placard for that slate in a UPS truck. Investigation showed that a long-term driver placed a "Hoffa/Herrera" placard in the front windshield of his UPS tractor, where it could be seen by other employees in the workplace. With assistance from the local union, the driver was identified and instructed that display of a campaign slogan in an employer vehicle can be misconstrued by employees as employer support for that candidate, which is prohibited by the *Rules*. The placard was removed the same day the protest was filed. The driver promised not to engage in further conduct of this nature. On this basis, 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:

Kathleen A. Roberts
Election Appeals Master
JAMS
620 Eighth Avenue, 34th floor
New York, NY 10018
kroberts@jamsadr.com

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, 1050 17th Street, N.W., Suite 375, Washington, D.C. 20036, all within the time prescribed above. A copy of the protest must accompany the request for hearing.

Richard W. Mark
Election Supervisor

cc: Kathleen A. Roberts
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