

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

IN RE: CHRIS PITTMAN,) Protest Decision 2016 ESD 179
) Issued: April 27, 2016
Protestor.) OES Case No. P-186-022316-ME
_____)

Chris Pittman, member and delegate candidate in Local Union 908, filed a pre-election protest pursuant to Article XIII, Section 3(b) of the Rules for the 2015-2016 IBT International Union Delegate and Officer Election (“*Rules*”). The protest alleged that supporters of Local 908 Working as One for All slate posted campaign material inside employer premises, conduct the protest alleged violated the *Rules*.

Election Supervisor representative Lia Lockert investigated this protest.

Findings of Fact and Analysis

Local Union 908 is entitled to elect one delegate and one alternate delegate to the IBT convention. At its nominations meeting held Saturday, January 9, 2016, two delegate candidates and two alternate delegate candidates were nominated. Local union president Brian VanMetre and local union secretary-treasurer Jason Fry, candidates for delegate and alternate delegate, respectively, formed the Local 908 Working as One for All slate. Chris Pittman and Doug Plassman, respectively candidates for delegate and alternate delegate, formed the Teamsters United Local 908 slate. The tally conducted March 4 showed that the candidates on the Working as One slate polled more votes than those on the United slate. On 306 ballots counted, VanMetre tallied 34 more votes than Pittman, and Fry 32 more than Plassman.

We deferred decision on this protest for post-election consideration pursuant to Article XIII, Section 2(f)(2). We may remedy violations found in post-election protests only where the conduct may have affected the results of the election. Article XIII, Section 3(b).

Investigation showed that two locations where Working as One campaign literature was posted were areas for general purpose postings. Neither of the locations was restricted by glass covers or notices requiring approval before posting. Photos supplied to our investigator showed that many postings in the two locations appeared to be employer and union notices. However, a notice for a pancake breakfast appeared among the notices at both locations and, in addition, an advertisement for the sale of a house appeared at one location.

The posting of campaign material in an area in which general postings occur implicates Article VII, Section 12(d) of the *Rules*, which declares that “[n]o restrictions shall be placed upon candidates' or members' preexisting rights to use employer or Union bulletin boards for campaign publicity.” Under this provision, past practice governs use of an employer bulletin board. *Cooper*, 2005 ESD 8 (September 2, 2005). Where there is no past practice of using the board as a general purpose board, there is no right to post campaign literature there. *Bolen*, 2006 ESD 73 (February 7, 2006); *Deaver*, 2006 ESD 74 (February 7, 2006); *Hailstone & Martinez*, 2010 ESD 24 (September 24, 2010). The only evidence presented concerning the posting areas was that they were used for general purposes. General purpose boards may be used for campaigning.

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Witnesses reported to our investigator that postings for the Teamsters United slate were also made at these locations. Indeed, supporters of both slates told our investigator that there was a “back and forth” of competing campaign material at these locations, with one slate’s literature appearing one day only to be replaced by the other slate’s material the next. Under these circumstances, we conclude not only that the posting locations were general purpose but that both sides recognized them as locations where campaign literature permissibly could be posted.

Accordingly, we DENY this protest.

Any interested party not satisfied with this determination may request a hearing before the Election Appeals Master within three (3) 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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