

OFFICE OF THE ELECTION SUPERVISOR
for the INTERNATIONAL BROTHERHOOD OF TEAMSTERS
1050 17TH STREET, NW, SUITE 375
WASHINGTON, D.C. 20036
202-429-8683
844-IBT-VOTE (844-428-8683) (TOLL-FREE)
electionsupervisor@ibtvote.org
www.ibtvote.org

Richard W. Mark
Election Supervisor

ADVISORY ON CAMPAIGN CONTRIBUTIONS, EXPENDITURES AND DISCLOSURE

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This advisory provides guidance to all candidates participating in the International Union Delegate and Officer Election, IBT members, campaign workers, and others regarding their rights and obligations under the *Rules for the 2015-2016 IBT International Union Delegate and Officer Election* (“*Rules*”) with respect to financing campaigns for International Union officer or convention delegate, and filing reports required by the *Rules*.

Each candidate and slate for International Union office, as well as each independent committees formed to influence the election of one or more International Officer candidates, must file a Campaign Contribution and Expenditure Report (“CCER”) and Supplemental Form No. 1.

Candidates and slates participating only in the International Union delegate and alternate delegate elections, and independent committees seeking only to influence the election of delegates or alternate delegates, are not required to file a CCER or Supplemental Form No. 1. However, sufficient records must be kept to demonstrate compliance with the *Rules*. See *Rules*, Article XI, § 2(b)(1).

Candidates, IBT members, campaign workers, independent committee officials and others must review and know the IBT election *Rules*. This advisory provides guidance relating to the *Rules*, but it does not replace or modify the *Rules*.

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I. INTRODUCTION

This advisory provides guidance on the rights and obligations of IBT members and candidates concerning the campaign finance and disclosure requirements of the 2015–2016 IBT International Union Delegate and Officer Election (the “IBT Election”). It is based on the requirements contained in the Consent Order and the *Rules*.

Contributions are described generally in Section III of this advisory. Contributions that may be made to individual candidates, slates, and/or independent committees fall into two principal categories:

- 1) Campaign contributions consisting of money or in-kind goods/services provided to operate, conduct, or procure goods/services to influence, positively or negatively, the election of a candidate. See Section IV, below; and
- 2) Legal and Accounting fund contributions consisting of money or in-kind goods/services provided to pay for professional services performed in assuring compliance with laws or rules applicable to the election. See Section V, below.

Other sections of the advisory discuss campaign expenditures (Sections VII-VIII, below), and reporting requirements for all contributions and expenditures (Sections X-XII, below).

II. CANDIDATES, SLATES, AND INDEPENDENT COMMITTEES REQUIRED TO FILE REPORTS UNDER THE RULES MUST USE THE WEB-BASED CCERS SYSTEM

All campaign finance activity for International officer candidates and independent committees supporting or opposing them must be reported using the Campaign Contribution and Expenditure Reporting System (“CCERS”). *Rules*, Article XI, § 2(a). CCERS is a web-based tool for reporting contributions and expenditures of International

officer candidates and independent committees in connection with the IBT Election. The Campaign Contribution and Expenditure Report (“CCER”) and Supplement No. 1 required for each reporting period is prepared and filed using CCERS. **Each International officer individual candidate, slate, and independent committee required to file reports must contact the Office of the Election Supervisor to establish a CCERS account.** A CCERS manual is available upon request from the Office of the Election Supervisor.

CCERS filers must maintain records of contributions and expenditures that are the basis for the CCERS entries. The Office of the Election Supervisor (“OES”) may conduct investigation and audits of CCERS filers at any time.

III. CONTRIBUTIONS – IN GENERAL

Only contributions “properly solicited, made, accepted and reported” for the 2015-2016 IBT International Union Delegate and Officer Election may be used to support or oppose candidates in this election. *Rules*, Article XI, § 1(b)(1). Funds originally solicited for other elections, whether at the International or local level, or solicited and pooled for another purpose, cannot be re-directed to support or oppose candidates in the 2015-2016 IBT International Union Delegate and Officer Election. *Certain Campaign Contributions by Officers and Employees of Local Union 78*, 2006 ESD 363 (October 4, 2006).

A. WHAT IS A CAMPAIGN CONTRIBUTION?

The term “campaign contribution” means:

...any direct or indirect contribution of money or other thing of value where the purpose, object or foreseeable effect of that contribution is to influence, positively or negatively, the election of a candidate for Convention delegate or alternate delegate or International Officer position.

Rules, Definitions, § 5.

The following are campaign contributions:

Advisory on Campaign Contributions, Expenditures and Disclosure

- Contributions of money, securities, or any thing of value;
- Payments to or subscriptions for a fundraising event of any kind (*e.g.*, raffle, dinner, beer or cocktail party, etc.);
- Discounts in the price or cost of goods or services, except to the extent that commercially established discounts are available to the customers of the supplier;
- Extensions of credit, except where obtained in the regular course of business from a vendor or from a commercial lending institution and on such terms and conditions as are regularly required by such institutions (*e.g.*, expenses not paid within sixty days are extensions of credit);
- Providing a loan or a guarantee on any loan related to campaign activities including but not limited to campaign contributions or expenditures;
- Payments for the personal services of another person, or for the use of building or office space, equipment or supplies, or advertisements through the media;
- Endorsements or counter-endorsements by an individual, group of individuals, or entity;
- Campaign endorsements or campaign related propaganda posted on websites;
- Solicitations on behalf of a candidate or group of candidates; or
- Performance of personal services or the making available for use of space, equipment, supplies, or advertisements.

Rules, Definitions, § 5(a)-(h). This is not an exhaustive list. The contribution of any thing of value is a campaign contribution, even if it is not expressly mentioned in the list above.

Contributions of money or services for use in complying with law or the *Rules* are segregated from campaign contributions and accounted for in a separate fund. “Campaign contribution” is defined as not including “payments or services received by the legal and accounting fund established by a candidate, slate or independent committee to provide legal or accounting services performed in assuring compliance

with applicable election laws, these Rules or other requirements, or in securing, defending, or clarifying legal rights of candidates.” *Rules, Definitions, § 5.*

B. PARTICULAR TYPES OF CAMPAIGN CONTRIBUTIONS

(1) *Money*

Whether donated directly to a campaign, or donated by purchase of a raffle ticket, an event ticket, or the purchase of paraphernalia from a campaign, money contributed to support or oppose the election of candidates is a campaign contribution. Only eligible members can make monetary contributions (*see § VI, Verification of Member Status of Contributors, below*). A monetary contribution must be made voluntarily by the eligible member with his/her personal funds, and cannot be made with funds provided by a third party or reimbursed to the member. *Certain Campaign Contributions by Officers and Employees of Local Union 78*, 2006 ESD 363 (October 4, 2006); *Certain Campaign Contributions by Officers and Employees of Local Union 853*, 2006 ESD 341 (August 23, 2006); *Local 20 Business Agents Fund*, 2001 EAD 549 (November 8, 2001), *aff'd*, 01 EAM 108 (November 28, 2001).

(2) *In-Kind Contributions*

Except for certain uncompensated, voluntarily provided services, non-monetary contributions made to a campaign are subject to the same restrictions and limitations as monetary contributions.

Donation of Goods: If a member or candidate donates goods (such as office furniture, supplies, food for fundraiser) to a candidate, slate or an independent committee for campaign activity, the fair market value of the goods must be determined and applied against the member’s contribution limit. There is no *de minimus* exception to the obligation to report such donations. *Hoffa Unity Slate*, 2000 EAD 73 (December 26, 2000) (violated *Rules* by not keeping accurate records of in-kind contributions from each member and as a result Election Administrator was

unable to determine whether expenses for faxed distribution of press release met the \$1,000 threshold and had to be reported on the CCERs).

Example: John, an IBT member, or his wife Mary, gives campaign “A” a used computer. The fair market value of that computer must be applied against John’s contribution limit.

Volunteering/Donation of Services by Member or Candidate: If a member or candidate donates services to a candidate, the donation may be considered as volunteer services and generally will not constitute a campaign contribution. The voluntary performance of services by a member on the member’s paid time off, such as paid vacation, paid lunch hours or breaks, and the like, does not transform a member’s services into a campaign contribution. *Rules, Definitions*, § 5(h); Article XI, § 1(b)(7), *see Pinder*, 2006 ESD 133 (March 7, 2006) (allowing, as a form of “shop talk,” campaign activity incidental to work); Article XI, § 1(b)(10); *see Murphy*, 2006 ESD 369 (October 17, 2006) (phone banking using personal cell phones on personal time at no cost allowed as a donation of service).

Volunteering/Donation of Services by a Member’s Immediate Family: If a member’s immediate family donates without charge or at less than the usual charge services that the family member performs regularly as part of his or her regular business or work, the donation will be considered an in-kind contribution and must be reported as such. The value of the in-kind contribution is the difference between the amount paid by the candidate, slate or independent committee and the market value or normal commercial rate for such goods/services. The value of the in-kind contribution is counted against the member’s contribution limit.

Example: Jane, a non-IBT member and a computer programmer, married to Paul, an IBT member, donates her computer programming services to campaign “B” on her days off. Her work is an in-kind contribution and the normal commercial rate for those services must be determined and applied against Paul’s contribution limit.

Volunteering/Donation of Services by Non-members: A non-member who is not otherwise an employer may also volunteer personal services to a campaign. If the individual is not compensated by anyone for such services and the services *are not within the individual's regular business, work, or income-producing activity*, the provision of such services is not a campaign contribution. *Rules*, Definitions, § 5(h) and Article XI, § 1(b)(10); *see Hoffa*, 2005 ESD 44 (December 30, 2005) (non-member retiree may donate in-kind services to campaign). On the other hand, if a non-member provides goods/services that the non-member provides or performs *as part of his or her regular business or work*, then the non-member must bill for the fair market value or the normal commercial rate for those goods/services or the goods/services will be deemed a prohibited campaign contribution. If the non-member is compensated for his/her services by someone other than the campaign – whether by the person's regular employer or another person/entity – the activity is no longer considered volunteering and the value of the services constitutes a campaign contribution. *Rules*, Article XI, § 1(b)(10); *Franken*, 2000 EAD 70 (December 21, 2000) (retired member can volunteer services during his personal free time and without the underlying support of any employer or labor organization).

Example: Sarah, a non-IBT member and an insurance broker, volunteers to do filing or to hand out leaflets for campaign "C" on her days off. Since these activities are not Sarah's regular business or work, she will be considered to have volunteered her services and not to have made a campaign contribution. If her employer pays her transportation costs to the plant gate or otherwise subsidizes her appearance there, her services (and the support provided) would be a campaign contribution by her employer and would be prohibited by the *Rules*.

Provision of Supplies or Services for Volunteers: A volunteer's use of supplies or services provided by another (other than a candidate's campaign, slate, or independent committee) transforms the volunteer's in-kind service into a campaign

contribution. The entity providing such supplies or services would be deemed the contributor. For example, an employee may perform personal services for a candidate, slate, or independent committee after his/her normal working hours without the value of such services being considered a campaign contribution. However, if the volunteer uses the employer's office, office equipment, telephones or the like in performing such services, a prohibited campaign contribution has been made by the employer contributing its equipment or supplies. The amount of the prohibited contribution by such entity would include not only the value of the equipment or supplies used, but also the value of the services performed by the volunteer. Similarly, if the volunteer were an IBT member, but a labor organization, foundation, trust, or any other person or entity prohibited from making a campaign contribution provided compensation, supplies, or services to assist the volunteer in performing such services, the entire value of the assistance provided plus the value of the compensation, supplies and/or services, would be a prohibited campaign contribution.

Goods/Services Provided by Persons or Entities Other Than a Candidate or

His/Her Campaign: Another type of in-kind contribution occurs when someone pays for goods/services on behalf of a candidate or slate. Examples include:

- A person or entity other than a candidate or his/her campaign pays for travel or lodging expenses to enable the candidate or his/her supporters to participate in campaign activities;
- Campaign buttons or leaflets are paid for by someone other than the candidate or his/her campaign;
- Advertising, printing, or consulting services are provided to the candidate at another person's expense.

The value of these types of in-kind contributions must be reported and would be the amount expended by the person/entity for the goods/services that were provided to the candidate/campaign or the market value of such goods/service, whichever is higher.

(3) Frequent Flyer Miles

A member may use his/her own frequent flyer miles for his/her own campaign-related travel, if he/she obtained the miles through personal travel or through travel for an employer *and* if it is the employer's policy to permit employees to retain the miles for their personal use. Air travel on frequent flyer miles used by the member personally is a reportable contribution valued at the fair market value of the airfare, but does not count towards the member's contribution limit.

If one member donates frequent flyer miles to another member for the donee's travel, that is an in-kind contribution which must be reported at the fair market value of the airfare and will be counted against the contribution limit of the member who contributed the miles.

(4) Travel Costs

A member who travels by air or other carrier and personally pays his/her own travel costs will not have these costs count toward the member's limit. However, these amounts should be reported as an in-kind contribution. If a member pays for another member's travel, that is an in-kind contribution which must be reported at the amount paid for the travel and will count against the contribution limit of the member paying for the travel. A member's use of his/her personal vehicle in order to campaign will not be considered a contribution and need not be reported.

(5) Lodging During Travel

Lodging expenses personally incurred by a member who travels in order to campaign will not count toward the member's limit. The amounts should be reported as an in-kind contribution. If a member pays for another member's lodging, that is an in-kind contribution which must be reported at the value of the amount paid and will be counted against the contribution limit of the member paying for the lodging.

(6) Discounts on Goods or Services

Discounts on goods or services do not constitute campaign contributions so long as they are not established specifically for use by campaigns or independent committees in the 2015-2016 IBT Election and are "available to the customers of the supplier." *Rules, Definitions, § 5(c)*. The first requirement is met if the practice of vendors providing customer discounts on goods/services is a common or accepted practice of the vendor or within the relevant industry. The second requirement is met if such a discount is offered to all customers and not just to a specific campaign or independent committee. The type of discount and its terms must be available to all similarly situated customers of the vendor and not be specifically created for the individual purchaser.

The purchase of discounted goods/services by an IBT member from a vendor does not constitute a campaign contribution by the vendor if the terms of the purchase are commercially reasonable. *Sparacino, 2006 ESD 351* (September 18, 2006); *Gilmartin, 95 EAM 45* (December 18, 1995). In situations where there is more than one producer of an item, the commercially reasonable price is set by the market. Whether the vendor offers similar terms to other purchasers of his product is also relevant. *Gilberg, P284* (September 20, 1991), *aff'd, 91 EAM 194* (October 2, 1991). In the case of a unique product produced by a single producer with a limited customer base, the determination will depend on whether all of the costs of production and

distribution, as well as reasonable profit, were covered by the sale price. *Carter*, P457 (April 26, 1996).

A discount provided to an employee (whether an IBT member or not) by an employer on its goods/services that is subsequently given by the employee to a campaign or independent committee is not an improper campaign contribution (from either the donor-employee or the employer) to the campaign or independent committee as long as the donor-employee is a permissible contributor under the Rules.

Example: IBT member Sam's next-door neighbor, Ralph, a non-IBT member and the president of a printing company, offers to do the printing for campaign "D" for no charge or at a reduced rate as a favor to Sam. Ralph does not provide the offered discount to other customers. Ralph's provision of these discount services violates the prohibition against employers making campaign contributions, as well as the prohibition against non-members making campaign contributions.

(7) Endorsements

"Campaign contributions" include "an endorsement or counter endorsement by an individual, group of individuals, or entity." *Rules*, Definitions, § 5(f). A member of the IBT is, of course, free to endorse a candidate. Generally, endorsements that include explicit references of support for a candidate in the context of the International Officer elections will be deemed campaign contributions. In each case the Election Supervisor will review whether the alleged endorsement supports or attacks the person identified in the endorsement in the context of his/her candidacy.

Although endorsements are not reported on the CCER, remedial action (including the return of campaign contributions) may be ordered as a consequence of a prohibited endorsement. In *Committee to Elect Ron Carey*, P651 (August 14, 1991), a solicitation that invited the recipient to a reception for the candidate included the names of celebrities who endorsed the candidate. The endorsement was considered a

campaign contribution and, because two of the endorsers were employers, their endorsements were improper. The Election Officer ordered the candidate's campaign to disgorge all proceeds of the solicitation/invitation by returning all contributions from the event.

Entities such as a local union, a joint council, or a labor organization's executive board cannot endorse a candidate. The following notice violated the *Rules* because it indicated endorsement by the local's executive board as an entity: "Teamsters Local 673's Executive Board unanimously endorse the Shea-Liguorotis Action Team." *Custer*, P1098 (November 18, 1991); *see also*, *Prisco*, 2010 ESD 6 (July 8, 2010); *Rivers*, 2011 ESD 137 (February 24, 2011); *Smith*, 2006 ESD 395 (November 12, 2006), *dismissed on other grounds*, 2006 EAM 78 (December 7, 2006); *Leedham*, 2006 ESD 380 (October 26, 2006); *Ostrach*, 2006 ESD 366 (September 26, 2006); *Leedham*, 2006 ESD 340 (August 22, 2006); *Hoffa*, P954 (September 23, 1996); *Smith*, P917 (October 10, 1991); *Pope*, 2000 EAD 3 (August 1, 2000). Such an endorsement by a labor organization is an improper campaign contribution.

Members of a local union's executive board or other local union officials, acting clearly as IBT members and not in any official capacity, may endorse candidates for International Office. For example, in *Moriarty*, P1071 (November 15, 1991), a letter sent to local union members stated that "the members of Teamsters Local No. 24 Executive Board have unanimously endorsed the R. V. Durham Unity Team." The letter was signed by the executive board members and noted their titles. The Election Officer found no violation because this was an endorsement by individual members of the board. To avoid any confusion, board members or local union officers who want to endorse a candidate must indicate on any publication of such an endorsement that their office or position is listed "for identification purposes only." The circumstances of any such endorsement may be examined closely to determine whether the language or context of the endorsement implies official union support of the candidate. *See Jensen*, 2006 ESD 167 (April 25, 2006), 2006 ESD 204 (April 22, 2006), *aff'd*, 2006

EAM 37 (May 12, 2006). Of course, such campaign activity cannot be financed by union funds. *Schauer*, P1251 (November 19, 1996). Also, see Section IV (F) below for further discussion on prohibited contributions by “labor organizations.”

(8) *Solicitations*

Employers may not solicit contributions for a campaign. *Cheatem*, Post 27 (August 21, 1997), *aff’d in rel. part*, 97 EAM 322 (October 10, 1997). Solicitations, invitations, promotional literature, or the like, may contain organizational affiliations of permitted individual endorsers named in such campaign material. The document must prominently state that the names of the organizations are listed “for identification purposes only.”

C. LOANS FOR ELECTION PURPOSES

Loans from members to general election funds and to legal and accounting funds are considered contributions and will count against the donor-member’s campaign contribution limits until they are repaid. This includes loans by a member or his/her immediate family to his/her general campaign or legal/accounting fund. If a member or his/her immediate family guarantees all or part of a loan, the member will be considered to have made a contribution up to the limits of the potential liability on the loan. Such guarantees are subject to the same limits on general campaign contributions that are applicable to other types of member contributions.

D. SURPLUS FUNDS

Candidates, slates or independent committees who retained surplus funds from a previous election can either return such funds to the original contributors or donate the surplus funds to a qualified non-profit charity. *Rules*, Article XI, § 1(b)(14). Campaigns cannot use funds retained from a prior election in the 2015-2016 IBT Election. For convention delegate and alternate delegate candidates, surplus funds

must be donated or returned not later than 60 days after certification of the election results. For International officer candidates, surplus funds must be donated or returned not later than 120 days after the certification of election results. All surplus funds that are to be returned to contributors must be promptly returned. Appropriate declarations under penalty of perjury should be filed with the Election Office attesting to the disposition of any surplus funds. *Rules*, Article XI, § 1(b)(14).

E. THIRD-PARTY CONDUITS AND TRANSFER OF CONTRIBUTIONS

A prohibited campaign contribution does not become permitted by being passed through an IBT member for delivery to a candidate. For example, a member soliciting funds on behalf of a candidate who accepts contributions from non-IBT members or employers cannot pass these contributions to candidates or their campaigns. Also, an individual member cannot contribute in excess of his/her contribution limit by giving money to other members for donation to candidates or their campaigns. Contributions made by multiple members must be attributed to those members individually and cannot be aggregated and attributed to a single member. *Hoffa-Hall 2011*, 2011 ESD 308 (August 5, 2011).

A contribution made by a person permitted to make a campaign contribution does not become prohibited merely because the contribution is derived from resources the contributor has received from persons or entities prohibited from making campaign contributions. For instance, the fact that a contribution is in the form of corporate stocks or bonds does not render the contribution invalid, so long as a person who is permitted to make a campaign contribution makes the contribution. Contributions will be examined by the Election Supervisor to discover the underlying “economic reality” as to the identity of the contributor. *See Certain Campaign Contributions by Officers and Employees of Local Union 78*, 2006 ESD 363 (October 4, 2006).

F. STRICT LIABILITY FOR PROHIBITED CONTRIBUTIONS

Candidates are strictly liable for ensuring that each contribution received is permitted. *Rules*, Article XI, § 1(b)(13). This strict liability covers solicited and unsolicited contributions. It applies whether or not an appropriate disclaimer was contained on the solicitation. Both the contributor and the benefited candidate are strictly liable. *Zuckerman & Gegare*, 2010 ESD 5 (June 28, 2010); *Hoffa*, P814 (July 1, 1996), *aff'd*, 96 EAM 212 (July 17, 1996); *Aloise*, 2010 ESD 22 (August 27, 2010). Ignorance of the *Rules* is not a defense to a violation. Article IX, § 1(b)(15). Compliance with the *Rules* on the source of campaign funds is a subject within the scope of the OES audit of CCERS filers.

Prohibited contributions must be returned promptly. Within three days of the return of any contribution, the candidate returning the contribution must provide to the Election Supervisor a sworn declaration under penalty of perjury identifying the original source and date of the contribution being returned, the amount of the returned contribution, the person to whom or entity to which the contribution was returned and the date on which the contribution was returned. *Rules*, Article XI, § 1(b)(13). Form 32 'Declaration of Returned Contributions' is available on the election website at www.ibtvote.org.

The *Rules* strongly recommend taking the following four steps to promote compliance: (1) each candidate notify all prospective contributors of the limitations on campaign contributions; (2) all candidate campaign literature soliciting contributions specifically provide that no contributions by employers, labor organizations or nonmembers may be made or accepted; (3) such campaign literature specify the applicable contribution dollar limits; and (4) similar disclaimers be issued at all fund raising events. *Rules*, Article XI, § 1(c). The following disclaimer may be used:

ATTENTION: Under the Election Rules, the campaign may accept general fund contributions only from active

IBT members and their immediate families. IBT members who are also employers may only make contributions from their personal funds. No member may contribute more than \$1,000 for use in any delegate election(s) or \$2,000 for use in the International Officer election.

A candidate's strict liability includes campaign contributions made to, and used by, representatives working on behalf of the candidate. Accordingly, the candidate, slate or independent committee must ensure that sellers of campaign paraphernalia or raffle tickets sell only to those persons or entities entitled to make campaign contributions. Moreover, such sellers of campaign paraphernalia must maintain records of all sales that will enable the candidate, slate, or independent committee to fulfill its requirement to report, and to maintain records of contributions and expenditures.

In determining whether a campaign contribution violation has occurred and the appropriate remedy, the Election Supervisor will consider all the surrounding facts and circumstances, including the relationship between the violator, the candidate, the campaign, and the contributor. In determining an appropriate remedy, the Election Supervisor will also consider the manner in which the contribution was solicited and/or accepted and whether an appropriate disclaimer was contained in or issued at the time of the solicitation. *Rules*, Article XI, § 1(d). If a campaign contribution is made by an individual or entity otherwise prohibited from making contributions, the Election Supervisor has broad power to find and remedy the violation including remedial action to be performed by the candidate or his/her campaign.

IV. PERMITTED AND PROHIBITED CAMPAIGN CONTRIBUTIONS (See Section V for Contributions for Legal and Accounting Services)

A. PERMITTED CONTRIBUTORS

Under Article XI of the *Rules*, only the following persons or entities may make campaign contributions to candidates and their campaigns:

- Active IBT members. Members who are on withdrawal, suspended, retired, resigned, or expelled from the union cannot make campaign contributions.
- An active member's immediate family, defined as the member's spouse, parents, children, sister(s) and brother(s), who are not otherwise considered employers.
- Independent committees, if the contributions are financed exclusively by active IBT members and their immediate family.

B. PROHIBITED CONTRIBUTORS

The *Rules* prohibit receipt of contributions:

- that exceed the limits described in Part C below.
- from non-IBT members, inactive members or former members, including retirees.
- from IBT employer-members when the contribution is derived from the employer-member's business resources, assets or name. *United States v. IBT*, 896 F. Supp. 1349 (S.D.N.Y. 1995).
- that are not the personal funds of the contributing member, or that were solicited for another purpose and are being re-directed to the current election. *See Certain Campaign Contributions by Officers and Employees of Local Union 78*, 2006 ESD 363 (October 4, 2006); *Local 20 Business Agents Fund*, 2001 EAD 549 (November 8, 2001), *aff'd*, 01 EAM 108 (November 28, 2001).

C. CONTRIBUTION LIMITS

The *Rules* limit the amounts a member may contribute to the delegate and alternate delegate elections as well as the International Officer election.

Contributions received from a member's immediate family (spouse, parents, children, or siblings) count towards the member's contribution limits described below, unless the family member is also an active member of the IBT. A member may make separate contributions to different candidates, slates, or independent committees provided that the total amount given by any one member does not exceed the limits stated below. The limits on a member's contributions to the International Union delegate and alternate delegate elections do not reduce the contribution limit applicable to that member for the International Officer elections, and vice versa. The limits on campaign contributions apply to all campaign contributions, including money and in-kind contributions made by an IBT member (including a candidate-member's use of unreimbursed personal funds to pay for campaign-related expenditures for office supplies, copying and mailing campaign literature, etc.). The limits on campaign contributions do not apply to legal and accounting fund contributions.

(1) Delegate/Alternate Delegate Elections

IBT members who are not candidates for delegate or alternate delegate may not contribute more than \$1,000 in total for use in the 2015–2016 delegate/alternate delegate elections (not including legal and accounting contributions). *Rules*, Article XI, § 1(b)(12)(C).

An IBT member who is a candidate for delegate or alternate delegate may contribute no more than \$2,000 in total to his/her campaign and/or to the slate of candidates of which he/she is a member (not including legal and accounting contributions). *Rules*, Article XI, § 1(b)(12)(A). An IBT member who is a candidate for delegate or

alternate delegate may contribute up to \$1,000 to other candidates, slates, or independent committees for use in the International Union delegate and alternate delegate elections. *Id.* However, in no case may an IBT member who is a candidate for delegate or alternate delegate contribute more than \$2,000 total for use in the entire 2015–2016 International Union delegate and alternate delegate elections. *Id.* Unused delegate election contributions must, after the certification of the particular delegate election, be returned to contributors or donated to charity. Rules, Article XI, § 1(b)(14).

(2) International Union Officer Election

IBT members who are not candidates for International Office may not contribute more than \$2,000 in total for use in the 2015-2016 International Officer elections (not including legal and accounting contributions). *Rules*, Article XI, § 1(b)(12)(D). IBT members who are candidates for International Office may not contribute more than \$10,000 in total to his/her campaign and/or to the slate of candidates of which he/she is a member (not including legal and accounting contributions). *Rules*, Article XI, § 1(b)(12)(B). A candidate for International Office may contribute up to \$2,000 to other candidates, slates, or independent committees for use in the International Officer elections. However, in no case may an IBT member who is a candidate for International Office contribute more than \$10,000 total for use in the entire International Officer election. *Id.* Contributions made by IBT members and candidates to campaigns or independent committees may be transferred to other individual candidates, slates or independent committees, for use in the International Officer election. *Rules*, Article XI, § 1(b)(9)(B).

(3) Contribution Limits in Canadian Dollars

The *Rules* state the limitations on contributions in United States of America dollar values. The following is a guide to the amount a member may contribute valued in Canadian Dollars:

CONTRIBUTOR/PURPOSE	CONTRIBUTION LIMIT	CANADIAN EXCHANGE
Non-candidate member for use in delegate elections	\$1,000 USD	\$1,270 CAD
Candidate for delegate/alternate delegate may donate to his/her own campaign	\$2,000 USD	\$2,540 CAD
Candidate for delegate/alternate delegate to another candidate's campaign	\$1,000 USD	\$1,270 CAD
Candidate for delegate/alternate delegate for use in the entire delegate elections	\$2,000 USD	\$2,540 CAD
Non-candidate member for use in the entire International Officer election	\$2,000 USD	\$2,540 CAD
Candidate for International Office to his/her campaign and/or slate	\$10,000 USD	\$12,700 CAD
Candidate for International Office to another candidate for International Office	\$2,000 USD	\$2,540 CAD
Candidate for International Office to all campaigns for use in the entire International Officer election	\$10,000 USD	\$12,700 CAD
Contributions by any person or entity for legal and accounting services	\$10,000 USD	\$12,700 CAD

The CCERS automatically converts contributions input in Canadian Dollars to the appropriate amount in U.S. Dollars based on the applicable exchange rate as determined by the Office of the Election Supervisor. The contribution limits are set forth at Article XI, § 1(b)(5) and Article XI, § 1(b)(12)(A)-(E) of the Rules. The above exchange rate is based on the April 1, 2015 rate of \$1 USD = \$1.27 CAD from OANDA, the Currency Site at www.oanda.com/convert/classic.

D. EMPLOYERS

Employers cannot make campaign contributions. *Rules*, Article XI, § 1(b)(2); *see Leedham*, 2006 ESD 300 (June 20, 2006) (employer and vendor’s reproduction of campaign literature as part of the vendor’s own promotional literature is a prohibited contribution); *Halstead*, 2005 ESD 31 (December 6, 2005) (display of union campaign sign in window of Mike’s Hockey Burger, an employer, is a prohibited contribution). See Section IV, *Contributions for Legal or Accounting Services*, for discussion regarding contributions which may be made to a campaign or independent committee’s legal and accounting fund.

The term “employer” means any individual, corporation, trust, organization or other entity that employs another, paying monetary or other compensation in exchange for that individual’s services. The term includes not-for-profit employers, governmental and agricultural employers and all persons acting as agents of an employer in relation to an employee. “Employer” is not limited to an employer that has a collective bargaining agreement with the IBT or that is the subject of an organizing campaign by the IBT. The term does not include a candidate’s campaign or campaign organization or a caucus or group of IBT members, provided that such caucus or group is itself financed exclusively from permitted contributions. *Rules*, Definitions, § 18. Nor does the term include a member who utilizes household-type help, such as a child-care provider.

An individual who employs personnel to assist in income-producing activities, even assuming such activities are performed in the individual’s home, will be considered an employer. Thus, a professional, such as a doctor, lawyer, or accountant, who employs a secretary or technician, will be considered an employer. Similarly, an independent investor, who employs secretaries, analysts, or the like to assist him/her in investment activities, will be considered an employer.

If an individual is not otherwise an employer, the payment for the services of an independent contractor, even in connection with income-producing activities of the individual, such as a stockbroker or accountant or lawyer, by itself, does not transform the individual into an employer.

Agents or representatives of employers will be deemed employers under the Rules in accordance with the Labor-Management Reporting Disclosure Act's definition of an employer as including any person acting "as an agent of an employer in relation to an employee." 29 U.S.C. § 402(e); *see also*, 29 C.F.R. § 401.5. Persons found to be supervisors within the meaning of the National Labor Relations Act ("NLRA") would normally be considered agents of an employer with respect to an employee.

Managerial employees as defined by the National Labor Relations Board ("NLRB") are also considered to be employers or representatives of employers under the Rules. Thus, employees (regardless of whether they are supervisors) who have responsibility from their employer to formulate or effectuate management policies by expressing and making operative its decisions will be deemed employers under the *Rules*. *See, General Dynamics*, 213 N.L.R.B. 851 (1974); *NLRB v. Bell Aerospace*, 416 U.S. 267 (1974). However, an employee who has professional skills will not be considered a managerial employee merely because of the exercise of the discretion inherent in his/her profession in the performance of his/her job. For example, an associate of a law firm (but not a partner), a registered nurse, a union organizer, and similar professionals whose effectuation of policy is limited to discretionary application of their professional skills will not be considered managerial employees.

The presumption that supervisors and managers are employers is rebuttable. The Election Supervisor will presume that any person who meets the definition of supervisor or manager is a representative of an employer and thus an employer under the Rules. The candidate or his/her campaign may rebut this presumption by proving

that the person (1) was not acting at the behest of the employer; (2) was not acting in furtherance of the employer's electoral preference; and (3) would not reasonably be seen by IBT members as acting in furtherance of the employer's electoral policy or candidate preference. *See, e.g., Hoffa 2001 Unity Slate*, 00 EAD 36 (October 12, 2000).

E. EMPLOYER-MEMBERS CONTRIBUTIONS

Under Article XI, § 1(b)(8) of the *Rules*, IBT members who are also employers may only make campaign contributions to candidates or their campaigns if the contribution is derived solely from the member's personal funds. An employer-member is prohibited from making contributions derived directly from his/her business (resources, services, assets, name, etc.). *See* Section V, *Contributions for Legal or Accounting Services*, for discussion regarding contributions which may be made to a campaign or independent committee's legal and accounting fund.

A member who owns his or her own rig or equipment is not considered to be an employer based solely on such ownership. Only if the member employs another, paying monetary or other compensation in exchange for that individual's service, would the member be considered an employer under the *Rules*.

F. LABOR ORGANIZATIONS

The term "labor organization" is defined as:

[A]ny organization recognized or certified as a collective bargaining representative of employees with respect to wages, hours and/or working conditions or any organization seeking to be so recognized or certified. The term includes, but is not limited to, the Union, its subordinate bodies, organizations representing governmental and agricultural employees, all parent and subordinate bodies of a labor organization, all national, state or central bodies with which any labor organization is affiliated, and all city, state, provincial, regional and central bodies of Change to Win, the AFL-CIO and the CLC.

Rules, Definitions, § 29.

Labor organization campaign contributions are prohibited. *Rules, Article XI, § 1(b)(3).* Union resources cannot be used for campaign purposes, such as soliciting for contributions. *Ostrach, 2006 ESD 348* (September 24, 2006) (violation to distribute, even inadvertently, by local union email a request for campaign contributions); *Certain Campaign Contributions by Officers and Employees of Local Union 726, 2006 ESD 143* (March 16, 2006) (violation to solicit campaign contributions by memo created and distributed using local union resources); *Aloise, 2010 ESD 22* (August 27, 2010) (violation to use local union staff on union-paid time to translate campaign flyers, to use local union phones and faxes for campaigning, and to direct local union staff to campaign on union-paid time); *Reyes, 2011 ESD 281* (June 18, 2011) (violation to accept campaign assistance paid for with union funds). Individual members, staffers, or officers of labor organizations other than the IBT cannot make campaign contributions. *Rules, Article XI, § 1(b)(4).* See Section V, *Contributions for Legal or Accounting Services*, for discussion regarding contributions which may be made to a campaign or independent committee's legal and accounting fund.

An incumbent may not permissibly offer union employment to a member in exchange for campaign support, even if the offer is rejected, as the job offer constitutes a "thing of value" under the *Rules*. *Gegare (after remand), 2011 EAM 3* (February 16, 2011).

In general, the IBT or its affiliates may conduct and pay for opinion surveys of their members about an issue of legitimate concern to the union as a body. However, it will generally be a prohibited campaign contribution for the IBT or an affiliate to conduct a poll that asks specific questions about how members view individual candidates or slates of candidates for office. *In re Teamsters for a Democratic Union, 2005 ESD 2* (July 15, 2005); *Giacumbo, P001* (September 29, 1995), *aff'd in rel. part, 95 EAM 32* (November 1, 1995); *Hoffa, P132* (September 29, 1995).

G. TREATMENT OF VOLUNTEER SERVICE

A member may volunteer personal services to a campaign without being considered to have made a campaign contribution if the member is not compensated by anyone for such services.

While volunteering, an individual may spend his/her personal money on normal living expenses (those that the volunteer would incur, even if not volunteering, such as for housing and meals) and minor expenses incidental to the campaign activity (*e.g.*, use of personal vehicle for campaigning; bus fare to work at rally) without having this considered a campaign contribution. Normal living expenses would also include frequent flyer miles, travel costs and lodging during travel if the volunteer was a member. Money spent on items not considered normal living expenses constitutes a campaign contribution.

There is no limit on the contribution of in-kind services by legal or accounting professionals, **so long as such services are performed in assuring compliance with applicable election laws, rules or other requirements or in securing, defending, or clarifying the legal rights of candidates.** *Rules*, Article XI, § 1(b)(5); *see* Section XII at page 22, below. Union funds or benefits cannot be diverted to legal or accounting professionals to pay for campaign-related work.

V. CONTRIBUTIONS FOR LEGAL OR ACCOUNTING SERVICES

Non-members, disinterested employers, foundations, and labor organizations (excluding the IBT or any subordinate body of the IBT) may provide financial support or services to the segregated legal and accounting fund of a campaign or independent committee. *Rules*, Article XI, § 1(b)(5); *see Hoffa 2006*, 2006 ESD 309 (June 26, 2006), *aff'd*, 06 EAM 56 (July 11, 2006) (partner at law firm, which firm was not an interested employer, may contribute to legal and accounting fund).

Contributions to this segregated fund from these otherwise prohibited contributors must either be: (1) received in response to solicitations specifically requesting such funds or services; or (2) earmarked for this fund by the contributor at the time the contribution is made. *Rules*, Article XI, § 1(b)(5). Therefore, contributions from persons or entities only permitted to make contributions for legal or accounting services that are received in response to general campaign solicitations or are not solicited and not earmarked may not be used for any purpose. Such contributions must be returned to the contributor. Such contributions may not be segregated by the candidate after the fact and placed in the candidate's legal and accounting fund.

A disinterested employer is one that is neither a party (nor member of an association that is a party) to a collective bargaining agreement with the IBT or any of its subordinate bodies nor has been the subject of an organizing campaign by the IBT or any of its subordinate bodies since January 1, 2007. *Rules*, Article XI, § 1(b)(5). IBT members may also make a contribution to a campaign or independent committee's segregated legal and accounting fund.

The resources of this fund must be used solely to pay for legal and accounting services performed in assuring compliance with applicable election laws, the *Rules*, or other requirements or in securing, defending or clarifying the legal rights of candidates. ***Except for in-kind services provided by a legal or accounting professional***, each contributor to any such fund may contribute no more than \$10,000 total in the aggregate to any such funds during the course of the 2015–2016 International Union Delegate and Officer Election.

Three elements must be present for in-kind services of professionals or non-professionals to qualify for treatment as legal and accounting services under Article XI, § 1(b)(5) of the *Rules*.

First, the service must be one that but for the provisions of Article XI, §1 (b)(5) would be a campaign contribution under the *Rules*. Thus, the service must have as a “purpose, object or foreseeable effect...to influence, positively or negatively, the election of a candidate for Convention delegate or alternate delegate or International Officer position.” *Rules*, Definitions, § 5. All of the portions of that definition, except the last paragraph, should be consulted and applied.

Second, the service must be of a type that would be commonly considered a legal or accounting service if performed by a lawyer or accountant. That the service was performed by a lawyer or accountant is insufficient to conclude that actual legal or accounting service was rendered. For example, if a lawyer provided “public relations” services (*see Leebove*, 97 EAM 328 (November 24, 1997)), the lawyer’s professional status would not transform that activity into legal services. The identity of the service provider is relevant, but not dispositive.

Third, the service must be one that otherwise relates to the 2015-2016 IBT International Union Delegate and Officer Election in the manner described in Article XI, § 1(b)(5); a service performed in assuring compliance with applicable election laws, rules (including the current *Rules*) or other requirements, or in securing, defending or clarifying legal rights under the rules or election laws.

If a service does not meet each of these three tests, the funding for or contribution of the service does not implicate Article XI, § 1(b)(5) of the *Rules* relating to legal and accounting services. The service may be another form of campaign contribution, however, within the *Rules*, Definitions, § 5.

Each person who provides paid or in-kind legal or accounting services to a candidate, slate or independent committee must submit a signed statement to the Office of the Election Supervisor that the services provided during that reporting period that are or will be charged to a legal and accounting fund are in fact legal or accounting services

within the meaning of the *Rules*, rather than services of another kind. Persons signing the statement must identify in it for each reporting period the name of any non-professional working under their supervision in that reporting period that has assisted in providing legal or accounting services, the type of assistance provided by those persons, and whether the provider of such assistance has been compensated.

Although persons/entities providing legal and accounting services to candidates, slates or independent committees are not required to file CCERs under the *Rules*, they must be able to prove that the services provided pursuant to Article XI, § 1(b)(5) of the *Rules* (whether compensated or in-kind) are legal and accounting services as defined in that subsection. Independent committees will be required to provide supplemental verification, in addition to the data provided to the Election Supervisor with their CCERs, that the services provided are legal and accounting services, and not campaign contributions.

All contributions to these funds must be segregated and kept in a separate bank account at all times. These funds must not be commingled with campaign funds nor used for campaign-related expenditures. Use of these funds to reimburse or replace unrestricted campaign funds expended on legal and accounting services is prohibited. *James P. Hoffa v. Slate*, Post 45 (August 21, 1997), *aff'd in rel. part*, 97 EAM 322 (October 10, 1997). Legal and accounting funds may not be used to pay the expenses of soliciting contributions for the legal and accounting fund; such expenses must be paid with regular campaign funds.

All monetary contributions to a legal and accounting fund, and all services donated in-kind must be reported on Supplemental Form No. 1, which is generated by the CCERS from the data input. *See CCERS manual for instructions regarding how to submit and amend CCER and Supplemental Form No. 1.* The value of in-kind services should be reported at the fair market value or what the legal or accounting professionals would have charged the candidate, slate, or independent committee. If

legal and accounting services are provided at less than fair market value or less than the professionals' normal fees or rates, an in-kind contribution has been received. The value of the contribution would be the difference in the amount paid by the candidate, slate or independent committee and the market value or the professional's normal rate for such services, whichever is higher.

No individual, whether a non-member or a member, may contribute more than \$10,000 in total for use in the 2015–2016 International Union Delegate and Officer Election to pay for legal and accounting services performed in assuring compliance with applicable elections laws, rules or other requirements or in securing, defending or clarifying the legal rights of candidates. *Rules*, Article XI, §§ 1(b) (5) & (12)(E). The \$10,000 limit on contributions to such funds should be inclusive of funds contributed by individuals, members of their immediate family and business entities in which individuals are more than a 5% owner, partner, or shareholder. In other words, if an individual gives \$10,000, not only is he/she capped out, so are all members of his/her family and all business entities in which he/she has such an ownership interest.

To assist parties in ensuring that contributions they receive as legal and accounting funds are proper under the rules, there is a statement for potential contributors to sign before they make a contribution. It is available on the website at www.ibtvote.org as Form 23. Parties should submit completed Form 23 directly to the Office of the Election Supervisor. Use of this statement is not required, nor does it insure against being held responsible for a violation. It is strongly recommended, however, that filing parties use either this or a similar mechanism to promote compliance with the *Rules*.

VI. VERIFICATION OF MEMBER STATUS OF CONTRIBUTORS

It is the responsibility of each candidate, slate and independent committee to make certain that all contributions are made only by members or their immediate family. The CCERS campaign reporting system includes a database of IBT members (including BLET, BMWE, GCC, and certain non-TITAN IBT Locals). Candidates, slates, and independent committees are responsible for any contributions that they verify from members that are not in the CCERS database of IBT members. Contributions can only be deposited or used for general campaign purposes after a contributor's membership status has been verified. Such contributions must be deposited into a separate escrow account established for the exclusive purpose of holding escrow funds. *Rules*, Article XI, § 2(b)(2)(B)-(C).

VII. EXPENDITURES & VENDOR DISCLOSURE

A. ITEMIZED EXPENDITURES - DISCLOSURE REQUIREMENTS

Candidates, slates, and independent committees must identify the individual, vendor, or entity that they pay expenditures to in the aggregate in excess of \$100.00, as well as the date, the amount and the purpose of the payment. This information must be reported in the CCERS. CCERS calls for the full name, mailing address and zip code of payee, and a clear and concise description of the purpose of the expenditure, e.g., "travel expenses," "reception costs," "office supplies," "salary," "polling," "phone banks," "donation to slate," "loan to slate," etc. must be provided. Report expenditure date(s), amount expended for reporting period and total amount expended to date to payee.

B. IN KIND CONTRIBUTIONS (MADE BY YOU TO OTHERS)–DISCLOSURE REQUIREMENTS

Candidates, slates, and independent committees must itemize all in-kind contributions in the aggregate in excess of \$100.00 that they make to others. This information must be reported in the CCERS. CCERS call for the full name, mailing address and zip code of payee, and a clear and concise description of the nature of the goods and services provided, *e.g.*, “travel expenses,” “salary for campaign worker,” “office supplies,” etc. Report expenditure date(s), amount expended for reporting period and total amount expended to date to payee. If an item given as an in-kind contribution was not recently purchased, you must estimate the amount at fair market value.

C. VENDOR DISCLOSURE

A candidate, slate or independent committee that pays for or contracts for goods or services for the 2015–2016 International Union Delegate and Officer Election in an aggregate amount of \$5,000 or more from a vendor that has performed work for the IBT or any of its subordinate bodies within the past 12 months before the donation must file a vendor report. The candidate or slate must state the terms of the agreement regarding work related to the election and identify the IBT bodies for which the vendor has worked. This disclosure requirement does not apply to banks, telephone companies, utilities, or the U.S. or Canadian postal services. *Rules*, Article XI, § 2(c).

Vendor reports must be filed for attorney vendors that do legal work for campaigns, slates, or independent committees. The Election Supervisor will keep confidential the identity of IBT bodies for which the attorney has worked.

VIII. OBLIGATIONS

A. LOANS AND CASH ADVANCES

Candidates, slates, and independent committees must itemize every loan and cash advance received. This information must be reported in the CCERS. Supply full name, mailing address and zip code of loan source. The terms of the loan, date incurred, date due, and interest rate (which must be greater than 0%) must be supplied. Itemize the beginning balance of the loan for the reporting period, the interest incurred during the period, the total payment for the period and the balance at the end of the period. If there are endorsers or guarantors on the loan, supply full name, mailing address and zip code. If the guarantor or endorser is an IBT member, provide Local Union # and Union name. If the guarantor or endorser is not an IBT member, provide occupation, employer, family relationship to member or candidate, name of member or candidate and his/her local union affiliation. Itemize the remaining guaranty amount outstanding at the end of the period.

B. EXTENSIONS OF CREDIT

Candidates, slates, and independent committees must identify any vendor that has extended credit to them in the aggregate amount of \$100.00 or more. An extension of credit must be reported on the first CCERS report filed after the date the credit in excess of \$100.00 is advanced. Supply full name, mailing address and zip code of the individual/entity providing the extension of credit. Submit a brief description of the credit, goods, or services provided. Itemize the outstanding balance at the start of the reporting period, the amount incurred during the reporting period, the total payments during the reporting period, and the outstanding balance at the end of the reporting period.

A campaign debt outstanding for more than 60 days is an “extension of credit.” *See, Hoffa 2006 Campaign Debt, 2007 ESD 404 (March 28, 2007); Leedham Rank and File*

Power Slate, 2001 EAD 301 (§ 11) (April 12, 2001); *Thompson*, PR41 (March 4, 1998). A campaign must pay the entity extending credit a commercially reasonable rate of interest on debt, even if the particular entity normally does not charge interest on past due balances. *Hoffa 2006 Campaign Debt*, 2007 ESD 404 (March 28, 2007).

IX. INDEPENDENT COMMITTEES

A. DEFINING INDEPENDENT COMMITTEES

The term “independent committee” means “any person or entity not controlled by a candidate or slate who/which has accepted any campaign contribution, or who/which has made any expenditure, where the purpose, object or foreseeable effect of the contribution or expenditure is to influence the election of International Officer candidate(s).” *Rules*, Definitions, § 22; *see Hoffa 2006*, 2005 ESD 3 (August 4, 2005) (applying definition). An example of an independent committee is a caucus or group of IBT members participating in the election process, but not controlled by a candidate or slate. An independent committee is not considered an “employer,” provided that it is itself financed exclusively from permitted contributions. *Rules*, Definitions, § 18.

Independent committees are subject to the same limitations as candidates with respect to the solicitation and acceptance of contributions. In addition, any contributions to independent committees count towards the campaign contribution limits described above. Members and candidates cannot exceed contribution limits by giving contributions to independent committees.

B. ADDITIONAL FILING REQUIREMENTS

The treasurer or other authorized representative of any entity that claims “independent committee” status must file a declaration under penalty of perjury with its initial

CCER, affirming that the committee is not controlled, directly or indirectly, by any candidate or slate. The declaration should also include: (1) the full name of the committee; (2) its mailing address; (3) the name of the treasurer; and (4) the candidate(s) or slate(s) the committee will be supporting or opposing. The Office of the Election Supervisor will send copies of such declarations, on request, to slate representatives, independent candidates and other independent committees.

C. PARTICIPATION IN CAMPAIGN ACTIVITIES

If an independent committee receives contributions or funding from sources prohibited under the *Rules*, such as non-members, employers, foundations or labor organizations, the independent committee can still make campaign contributions if it: (1) properly allocates and segregates resources obtained from prohibited sources from those received from permissible sources; and (2) utilizes only the resources obtained from permissible sources for campaign activities. *Taylor*, 2000 EAD 40 (October 24, 2000); *Hoffa*, PR39 (March 10, 1998), aff'd, 98 EAM 341 (April 9, 1998); *Halberg*, P19 (December 14, 1995); *Gully*, 91 EAM 158 (June 12, 1991). See also *Taylor*, 2000 EAD 75 (December 29, 2000).

In 1991, the Teamsters National Black Caucus' endorsement of a candidate for International Office and partisan conduct at its convention were deemed prohibited campaign contributions since the caucus did not allocate and segregate revenues and contributions obtained from union funds separately from those received from permissible contributors. The Election Officer found that to the extent the Teamsters National Black Caucus was the recipient of in-kind contributions from the IBT, it was required to allocate and refund the value of the services either to the IBT or to its non-campaign related funds. The Election Officer also found that to the extent that the Teamsters National Black Caucus received union funds through local union reimbursement for membership fees, fundraiser tickets, convention expenses (e.g., travel, lodging, registration fees), it would be required to refund the portion of these

funds expended on campaign activities at the convention. *Cook*, P955 (November 8, 1991), *aff'd*, 91 EAM 232 (November 22, 1991).

X. CCER AND SUPPLEMENTAL FORM NO. 1 FILING REQUIREMENTS

Every member who is a candidate for International Office and every slate of such candidates who have received or solicited any contributions or made any expenditures, where the purpose, object or foreseeable effect of any such contribution or expenditure is to influence the election of that member or slate, whether or not such member or slate is as yet declared, accredited or nominated must file a CCER and Supplemental Form No. 1 according to the deadlines provided in the *Rules*. *Rules*, Article XI, § 2(a)(1)-(2). Similarly, every independent committee which has received or solicited contributions in excess of \$1,000 or made expenditures in excess of \$1,000 where the purpose, object or foreseeable effect is to influence the election of an International Officer candidate must file a CCER and Supplemental Form No. 1. *Rules*, Article XI, § 2(a)(3). The filing requirement is satisfied by using CCERS to enter all campaign finances and to generate forms that the *Rules* require to be filed.

The first CCER must include information retroactive to the first contribution and the first expenditure for the election at issue. *Rules*, Article XI, § 2(d)(1)(i). If a candidacy begins before the *Rules* take effect, the first CCER must include all requested information retroactive to the first contribution to and the first expenditure for that particular candidate. *See generally Taylor*, 2000 EAD 75 (December 29, 2000).

Independent committees must also submit to the Office of the Election Supervisor redacted CCER and Supplemental Form No. 1 schedules with the identity of contributors and their local unions deleted. CCER and Supplemental Form No. 1 cannot be redacted through the CCERS. The redacted schedules should also delete the identity of members and their local unions to the extent this information is

included in any other place in the schedules. With respect to contribution information, the redacted schedules should provide only the total amount of contributions and the total number of contributors. For further information regarding these redacted schedules, please see the Election Supervisor's opinion letter of September 15, 2000. *See also Taylor*, 2000 EAD 75 (December 29, 2000), pages 11-12 (no requirement that Teamster Rank and File Education and Legal Defense Foundation's contributors be identified on its CCER forms).

The filing schedule is currently as follows:

- CCER #1 Due on or before June 15, 2015. The first CCER and Supplemental Report #1 must include all requested information retroactive to the first contribution and the first expenditure for the 2015-2016 International Union Delegate and Officer Election through May 31, 2015.
- CCER #2 Due on or before October 15, 2015, for the period from June 1, 2015, through September 30, 2015.
- CCER #3 Due on or before February 15, 2016 for the period from October 1, 2015, through January 31, 2016.
- CCER #4 Due on or before June 15, 2016, for the period from February 1, 2016, through May 31, 2016.
- CCER #5 Due on or before September 15, 2016, for the period from June 1, 2016, through August 31, 2016.
- CCER #6 Due on or before October 3, 2016, for the period from September 1, 2016, through September 15, 2016.
- CCER #7 Due on or before October 17, 2016, for the period from September 16, 2016, to September 30, 2016.
- CCER #8 Due on or before November 1, 2016, for the period from October 1, 2016, through October 15, 2016.
- CCER #9 Due on or before November 15, 2016, for the period from October 16, 2016, through October 31, 2016.
- CCER #10 Due on or before December 1, 2016, for the period from November 1, 2016, through November 15, 2016.
- CCER #11 Due on or before January 17, 2017, for the period from November 16, 2016, through December 31, 2016.

Rules, Article XI, § 2(d)(1).

Even if the candidate, slate, or independent committee does not solicit or receive any contributions in any period, a CCER must still be filed indicating the receipt of no contributions. Similarly, even if the candidate, slate or independent committee does not solicit or receive any contributions for legal or accounting funds, Supplemental Form No. 1 must still be filed indicating this. This requirement applies even where a candidate is part of a slate and has received no campaign contributions or made no campaign contributions independent of his or her slate. The filing of a CCER by a slate in no circumstances relieves any of the slate's candidates for International office from timely filing CCER reports for each reporting period. There is no initial requirement for candidates, slates, and independent committees to submit documentation of contributions and expenditures reported on the CCER and Supplemental Form No. 1 (receipts, check stubs, invoices, etc.) with the reports. However, the Election Supervisor strongly urges all candidates, slates, and independent committees to keep such records since the Election Supervisor may subsequently require further documentation.

Timely filing of CCER reports is important. *Hoffa-Hall 2011*, 2010 ESD 166 (March 18, 2011). The Election Supervisor has discretion to fine candidates who are required to file reports but fail to do so timely. Fines may be imposed even where the reportable contributions and expenses of the candidate are \$0, and even where the candidate is a member of a slate that is filing reports on the slate's behalf. *Hoffa-Hall 2011*, 2011 ESD 194 (March 30, 2011).

XI. REQUIRED RECORD KEEPING FOR DELEGATE ELECTIONS

Each candidate, slate, and independent committee participating in the International Union delegate and alternate delegate elections is required to keep sufficient records to demonstrate compliance with the *Rules*. Specifically, all candidates are required to maintain records of the names of every contributor and the amount of each

contribution, including sales of campaign paraphernalia. Each candidate, slate and independent committee is subject to audit by the Election Supervisor upon notice. *Rules*, Article XI, § 2(b)(1).

XII. INSPECTION OF CCERs

A. INSPECTION OF REPORTS BY CANDIDATES

Under Article XI, § 2(e) of the *Rules*, each nominated or accredited candidate for International Office has a right to inspect and obtain copies, subject to a reasonable charge determined by the Election Supervisor, of any campaign financing and expenditure reports and/or vendor reports required to be filed by other candidates or slates upon reasonable request at the Office of the Election Supervisor in Washington, D.C. No candidate may inspect or copy any campaign financing and expenditure reports of any independent committee, without the express prior written consent of that independent committee by its authorized representative. Candidates may inspect or copy *redacted* campaign financing and expenditure reports filed by an independent committee without the consent of the committee. Please note the Office of the Election Supervisor will not make available those portions of independent committee CCER, Supplemental Form No. 1, or Vendor Reports (including other supporting schedules) that the *Rules* require to be redacted.

While the *Rules* specify that the right to inspect is the right of the candidate, the Election Supervisor has determined, consistent with other provisions of the *Rules* and the Labor-Management Reporting & Disclosure Act (“LMRDA”), that a candidate may designate a representative to act in his/her stead. The representative must be an IBT member and authorized to act on behalf of the candidate. Because of the nature of these reports, the Election Supervisor will also permit the candidate or his/her representative to be accompanied by someone trained in accounting or law. The determination in this regard by the Election Supervisor is in accord with rights

afforded union members when otherwise inspecting union books and records pursuant to the provisions of the LMRDA.

To the extent that a lawyer or accountant will accompany the candidate, or if the inspection is to be accomplished by a representative appointed by the candidate, prior to the date and time for the inspection the candidate shall provide written notification to the Election Supervisor. The name, last four digits of the social security number and Local Union number of the IBT member appointed by the candidate to represent him/her and/or the name, address and title of the lawyer or accountant who will accompany the candidate or his/her representative should be provided.

B. ELECTION SUPERVISOR REVIEW OF REPORTS

In order to assure compliance with the *Rules*, the Election Supervisor retains the right to investigate and audit the finances of every candidate, slate, and independent committee in whatever degree of detail the Election Supervisor deems necessary or appropriate. An Election Supervisor investigation may be in response to a protest, may be initiated upon his review of CCERs, or may be initiated on a random basis. The Election Supervisor may, in his sole discretion, request submission of all supporting bills, receipts, bank records and other backup documentation. All candidates, slates and independent committees and their employees, agents and representatives are expected to cooperate promptly, and fully, with any Election Supervisor request for information. Any review by the Election Supervisor shall not constitute his approval of the contents of any report. Candidates, slates and Independent committees remain strictly liable for ensuring they have not accepted prohibited contributions.

Dated: Washington, D.C.
May 1, 2015



Richard W. Mark
Election Supervisor