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ELECTION SUPERVISOR'S SUMMARY REPORT NO. 3 TO THE IBT

The February 26, 2015 Stipulated Agreement and Order appointing the Election Supervisor for the 2015-2016 IBT International Union Delegate and Officer Election (the "2016 Election Agreement") provides that "The 2016 Election Supervisor shall have the right and obligation to submit reports to the IBT which, in turn, has the obligation to share these reports with the membership and the Government." Election Agreement, ¶ 2. Each month during the election cycle, the Office of the Election Supervisor ("OES") provides to the IBT and the Government an accountant's compilation of the OES financial statements, including a chart that shows OES actual and budgeted expenses. This report provides additional narrative context for the monthly financial compilations and summarizes activities conducted from January 15, 2016 through July 14, 2016.

I Election and Certification of Convention Delegates

In the 2016-2016 International Officer election cycle 467 subordinate entities of the IBT elected delegates to the IBT's 29th International Convention. The electing entities (all of which will be referred to as "Local Unions") were IBT Local Unions, Graphic Communications Conference ("GCC") Local Unions, System Federations of the Brotherhood of Maintenance of Way Employees Division ("BMWED"), and General Committees of Adjustment of the Brotherhood of Locomotive Engineers and Trainmen ("BLET"). The results of the

delegate elections are summarized below. The following table shows the number of Local Unions that held elections and tallies the number of contested and uncontested elections.

	Contested	White Ballots ¹	No Nominee	Total
IBT Locals	76	300	0	376
GCC Locals	4	44	3	51
BMWED SFs	2	13	1	16
BLET GCAs	0	28	4	32
Totals²	82	385	8	475

In all, 429 delegates and 274 alternate delegates were elected in contested Local Union elections; 1,170 delegates and 714 alternate delegates were elected as a result of white ballot nominations. The following table shows the final distribution of delegate strength to the 29th International Convention by IBT region:

Number of Delegates By IBT Geographic Region					
REGION	IBT	GCC	BMWED	BLET	TOTAL
CENTRAL	406	22	13	18	459
EASTERN	415	18	6	12	451
SOUTHERN	116	4	16	12	148
WESTERN	414	10	6	5	435
CANADA	130	2	0	0	132
TOTAL IBT	1,481	56	41	47	1,625

The total number of delegates elected is less than the total delegate strength for two reasons. First, eight entities did not elect delegates allocated to them. This includes five entities created solely for the purposes of delegate election by consolidating small GCC, BMWED and BLET Local Unions into regional blocs. These consolidated blocs failed to

¹ Regarding delegate and alternate delegate elections, Article II, Section 8 of the *Rules* states that "When the number of nominees . . . does not exceed the number . . . to be elected, there shall be no necessity for an election . . . and such nominee(s) shall be declared duly elected." When this occurs, the election of delegates or alternate delegates is said to have taken place by "White Ballot."

² In 2011, of 524 Local Unions authorized to elect delegates to the 28th Convention of the IBT, 516 Local Unions did so. The comparable figures for 2006 are 614 and 606 Local Unions. The decrease in the number of Local Unions authorized to elect delegates in successive election cycles reflects the consolidation or elimination of subordinate labor union entities in the years between the conventions.

produce candidate nominations in 2011 and 2006. Second, 63 delegates resigned and 12 were ruled ineligible after the completion of the election. If there was no alternate delegate to elevate to the delegate slot, the position went unfilled.³

Ultimately, 1,601 delegates registered for the convention. The 24-delegate difference between the full delegate strength and the number registered is reconciled as follows: 8 Local Unions, each entitled to one delegate, did not elect any delegate; 3 Local Unions had delegates declared ineligible, but insufficient alternates to restore their full delegate strength; 13 delegates from various Local Unions did not appear and register for the convention.

OES disqualified one alternate delegate for misconduct. The alternate delegate, elected from Local Union 89, was found to have committed a battery on another member in the course of campaign activity and was disqualified on that basis. *Faith, Raisor and Reynolds*, 2016 ESD 176 (April 20, 2016), *aff'd* 2016 EAM 19 (May 2, 2016).

II. Supplemental Rules, Advisories, and Other Announcements

The following supplemental rules and advisories were issued after the last report to the IBT:

- *Advisory on Rights of Candidates to Distribute Campaign Literature to Members Using IBT International Union and Local Union Email Addresses* (March 8, 2016). Most Local Unions do not have lists of member email addresses used for communications. The Advisory creates a framework for candidates to learn about the nature of lists that do exist so that the candidates can decide whether to request and use them. Some Local Unions consider email communication to be qualitatively different from postal mail, and are reluctant to allow candidate access to email on terms that would otherwise apply to postal address lists. OES has been involved in resolving access issues when they arise.

³ OES reviewed the membership status of each elected delegate and alternate delegate and issued credentials only to those that met the eligibility criteria of the *2016 Election Rules*. Through this process, 11 delegates and 15 alternate delegates elected were ultimately ruled ineligible. One delegate challenged the OES ineligibility ruling before the Credentials Committee, and the committee agreed with OES's determination. In the period before delegate nominations, 1,119 members requested OES to check their eligibility to be nominated as a delegate or alternate delegate.

- *Advisory Regarding Payment of Expenses for Convention Delegates and Alternate Delegates to the 29th International Convention of the International Brotherhood of Teamsters* (March 24, 2016, revised May 19, 2016). This advisory discussed the obligation of Local Unions to pay for the Convention expenses of their delegates. Issues arise under this Advisory when members seek to take “official union business” leave for the Convention and employers do not recognize that request, or when payments become a “political” issue because (for example) Local Union officers and the elected Local Union convention delegates support different candidates in the International Union Election. OES is involved in resolving disputes so that elected delegates receive the expense payments to which they are entitled. *See, e.g., Local Union 118 Delegates and Alternate Delegates*, 2016 ESD 256 (June 24, 2016), *appeal withdrawn* 2016 EAM 27 (June 28, 2016)
- *Final Delegate Strength – 29th International Convention of the IBT* (March 30, 2016). The final delegate strength calculations, based on each Local Union’s two-year average membership for the period ending February 28, 2016, was calculated as of March 30, 2016 and posted on the OES website.
- *Supplemental Election Supervisor Rules for the 29th International IBT Convention* (May 19, 2016). These Supplemental Rules concerned the schedule and procedures for the nomination of candidates at the Convention. There were two changes of note from the Supplemental Rules for the 28th Convention. First, floor-nominated candidates were given “the close of nominations for the office for which the candidate seeks nomination” as the deadline for submission of a written acceptance. Although all floor-nominated candidates submitted written acceptances, only one floor-nominated candidate (who was unable to attend the Convention) did not accept in person. Second, the Supplemental Rules provided that candidates could not serve as observers during the secret ballot voting. Prior versions of the rule excluded candidates as observers only when the candidate’s name appeared on the ballot. The revised rule excludes candidates as observers in all secret ballot voting sessions, and is consistent with an Advisory issued in November, 2015 that bars candidates from conducting any aspect of the delegate election process. The IBT Convention Rules Committee incorporated all provisions of the Supplemental Rules into the Convention Rules.
- *News Media Access Rules – 29th International Convention of the International Brotherhood of Teamsters* (June 7, 2016). This advisory set out the rules for news media access to the Convention floor during business sessions and to the delegate voting area and environs when OES conducted the nomination voting for International officer candidates.
- *Convention Floor Access Rule for Candidates – 29th International Convention of the International Brotherhood of Teamsters* (June 8, 2016). This rule allowed candidates to obtain a floor credential for campaign photographers to use during nominations.
- *Supplement to the Advisory on Rights of Candidates to Distribute Campaign Literature to Members Using IBT International Union and Local Union Email Lists* (July 8, 2016). This *Advisory* addresses two questions concerning access to email lists. The advisory reiterated the entities covered by the email *Advisory* and gave additional details on the procedure for candidates to obtain access to email lists.

- *Publication Review Advisory* (July 8, 2016). This *Advisory* sets out the procedure for pre-publication review of Union-financed publications. *2016 Election Rules*, Article VII, § 8(e). Union-financed publications are prohibited from supporting or opposing any candidates in the International Officer election. By pre-publication review, OES hopes to eliminate (or at least minimize) occurrences of improper use of Union resources – Union-financed publications – to conduct campaign activity.

In the evening of each convention business day, delegates and alternate delegates are allowed to swap credentials. This mainly allows alternate delegates to participate in the ballot nomination and voting process on the day following the credential swap. OES and the IBT processed credential swaps each day of the Convention, and posted the changes to the delegate roster on www.ibtvote.org so that candidates and delegates would know the voting delegates for each convention session.

III. Convention Nominations and the Fall Election

OES's work at the Convention focused on conducting the floor nomination of candidates for International Union Office on the Convention's second, third and fourth days and the secret ballot voting for the floor-nominated candidates on the evenings of those days. At the start of the week, 38 individuals had declared themselves "announced candidates" for International Union Office. Candidates were advised of procedures for the nominations, including the holding of lotteries for the order of nomination (one lottery on Sunday, June 26) and placement on the nomination ballot (one lottery each day after the morning session of floor nominations). The number of candidates nominated from the floor exceeded the number of positions open for election for all offices with the exception of Vice-President for Teamsters Canada.

International Office	Number of Floor Nominees
General President – One Slot	2
General Secretary-Treasurer – One Slot	2
Vice-President At-Large – Seven Slots	14
International Trustee – Three Slots	6
Central Region Vice-President Four Slots	8
Eastern Region Vice-President – Three Slots	6
Southern Region Vice-President – Two Slots	4
Western Region Vice President – Three Slots	7
Vice President Teamsters Canada – Three Slots	3

Evening balloting was conducted for all offices (other than Vice-President for Teamsters Canada), and the results from each secret ballot vote are posted on www.ibtvote.org. The secret ballot vote produced contested elections for the following International Union Offices:

General President
General Secretary-Treasurer
Vice-President At-Large
Central Region Vice-President
Eastern Region Vice-President
Southern Region Vice-President
International Trustee

Four of the seven candidates floor-nominated for Western Region Vice-President were nominated to the ballot by secret ballot vote, but one of the four withdrew after the secret ballot vote and did not accept nomination to the ballot. As a result the number of candidates nominated for the ballot and who accepted that nomination did not exceed the number of positions open for election as Western Region Vice-President.⁴

⁴ In each secret ballot session, delegates marked paper ballots by hand, and the ballots were read and tabulated by electronic scanners and related software. Logic and accuracy testing of the ballot tabulation system was conducted for each day of balloting in the presence of observers.

An observer questioned the machine count of the Western Region ballots. The ballots were inspected and recounted manually. The recount agreed with the electronic count and the result was not further challenged.

On July 1, the final day of the Convention, OES presided over the acceptance speeches delivered by candidates nominated to the ballot for General President and General Secretary-Treasurer. The Election Supervisor also certified those candidates duly elected at the Convention (the Western Region and Teamsters Canada Vice-Presidents), noting that those individuals would not take office until expiration of the term of office of the current officers which will occur upon certification of the referendum election in the fall of 2016. An announcement of the certification is posted on www.ibtvote.org.

OES has posted notice that ballots will be mailed to the IBT membership on October 6 and that the ballot count will commence on November 14, 2016. A candidate forum is scheduled for August 25, 2016 and will be held in the Washington, D.C. area.

IV. Campaign Finance Reporting and Auditing

A forensic audit team from Duff & Phelps has completed previously-scheduled audits of several of the campaigns, and that oversight will continue through the fall. The auditors have also received responses from members and others requesting independent verification of reported contributions and expenditures. This testing was done on a sample basis.

V. Protests

Through July 14, 2016, OES has received 325 protests. Relief has been granted, or the issues have been resolved, in 76 of the protests, with the rest being denied or withdrawn. Thirty-six rulings have been appealed to Election Appeals Master Roberts resulting in 27 decisions. Nineteen of the decisions appealed were affirmed, one was reversed, one was remanded, and appeals relating to 15 decisions were withdrawn or dismissed.

Two protests resulted in orders to rerun delegate elections. In *Halstead*, 216 ESD 166 (April 8, 2016), *aff'd* 2016 EAM 16 (April 21, 2016), the Election Supervisor found that impediments to parking lot access at one employer and improper campaigning in the workplace

at a second employer required a rerun of the Local Union 572 delegate election. In *Schultz*, 2016 ESD 156 (April 1, 2016), *rev'd* 2016 EAM 17 (April 25, 2016), the Election Supervisor found that a candidate in the delegate election had taken over a Facebook page originated by Local Union 2011 and improperly used it to convey the message that the local union had endorsed that candidate's slate. The protest was denied, however, for insufficient evidence of a "definitive or causal" nexus to the outcome of the election. The Election Appeals Master affirmed the Election Supervisor's factual findings but reversed on the law, concluding that the protestor had shown that the violation "may have affected the outcome of the election." Accordingly, the Election Appeals Master directed a rerun of the Local Union 2011 delegate election.

Several decisions issued at the Convention concerned speech or other activity by Convention participants. In *Teamsters United*, 2016 ESD 258 (June 27, 2016), *aff'd* 2016 EAM 26 (June 28, 2016), remarks made by an IBT Trustee as an introduction to a speech constituted campaign speech prohibited during the "politically neutral" working session. As a remedy, the speaker was ordered to cease and desist from further violations and to pay a \$250 fine, and the slates were directed to deliver a copy of the ruling to all candidates for guidance. The ruling was based on an interpretation of the Supplemental Rules, and Rule 46 of the IBT Convention Rules, and the Election Appeals Master affirmed the decision. The Supplemental Rules and Convention Rules could be modified, in the future, to more clearly and emphatically state the rule embodied in the decision.

In *Teamsters United*, 2016 ESD 259 (June 28, 2016), OES investigated whether campaign placards were distributed on the Convention floor, which would have constituted prohibited campaign activity in the "politically neutral" zone. No systematic distribution was found and Convention sergeants-at-arms properly enforced the ban on such material in the Convention hall.

Zuckerman, 2016 ESD 267 (June 30, 2016), concerned a delegate who, claiming a point of privilege, made a campaign speech at the close of the regular business session on the first day of the Convention. The Election Supervisor found that the speech constituted campaigning in a “politically neutral” zone in violation of the Supplemental Rules and Convention Rule 46. The delegate was ordered to cease and desist from further violations and to pay a \$500 fine.

Finally, *Hoffa-Hall*, 2016 ESD 268 (June 30, 2016), concerned the proper bounds of a candidate’s acceptance statement. The Supplemental Rules limit floor-nominated candidates to an acceptance statement, but, in this case, the Election Supervisor held that a candidate nominated for Central Region Vice-President had made campaign statements in his acceptance. The candidate was ordered to cease and desist from further violations and to pay a \$250 fine.

In all of the cases, the fines were paid as directed. The funds have been deposited to the OES bank account.

VI. Budget and Expenses

OES proposed to the parties a budget of \$12,885,700 based on certain assumptions about the level of election activity. Actual activity is compared to the budget and reported to the parties each month. OES has expended \$4,725,042.76 through June 30, 2016.

As the election progresses, actual experience during the election cycle may call for budget revisions. OES will continue to share its monthly expense information with the government and the IBT so that the parties have complete information about the costs incurred,

and will also keep the parties informed about the activities necessary to complete this election in a manner that is fair, open, and honest for all members of the IBT.

Dated: July 18, 2016
New York, New York

Respectfully submitted,



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