

# **EXHIBIT E-1**

COMMENTS ON THE PROPOSED 2016 RULES RECEIVED AT OES VIA EMAIL

**Comment From Larry Parker, Member of IBT Local Union 986**

Submitted *via* email, April 7, 2015

I was a delegate to Teamsters conventions in 2001 and 2006. For each convention week, I received most of the compensation and perks as the Local 986 delegates and alternate delegates who were employees of the Local.

Almost all of the other delegates and alternate delegates representing this large Local Union at those two conventions were employees of the Local. For the convention week, all of us received a week's worth of pay, at our normal rate, as if we had been working as usual, outside of the convention. (In my case, 40 hours of pay at my usual rate.) We also all received six nights in our own hotel room, and transportation and meal money, as per the Rules.

However, the Local 986 employees who were delegates or alternate delegates continued to have health and pension contributions made on their behalf, as usual, while no such contributions were made on my behalf during the convention weeks. Also, as a construction driver, when we are working normally, we also get compensated by our employer \$2.70 per hour above and beyond our hourly wage. \$2.00 of that is withheld from our weekly check, and temporarily goes to what is called the Vacation-Holiday fund. As the name implies, that \$2.00 is considered as compensating us construction drivers for holidays and vacations. We get that money each December first, as a lump sum. (The remaining 70 cents from the \$2.70 goes to the Local Union as supplemental dues.) So the third benefit I did not receive during the weeks I was a delegate amounted to \$2 per hour for 40 hours per week.

I don't think it is fair that Local 986 officers and business agents who were delegates or alternate delegates received more benefits than Local 986 rank and file delegates or alternate delegates. I do not know if the situation was the same in other Locals where there was at least one rank and file member who was a delegate or alternate delegate. But I write this also for their possible benefit.

So I ask for a new rule that says something to the effect that rank and file delegates and alternate delegates, in addition to the past and existing compensation and perks during the convention week, should also have paid on their behalf 40 hours of pension contributions, 40 hours of health insurance contributions, and 40 hours of any other contributions that the rank and file members normally get from their employer when working as a member of their Local.

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**Comment From Nancy Shaw, General Counsel of IBT Local Union 959**

Submitted *via* email, April 16, 2015

p. 14 Art. II, Sec. 4(b) (14) requires the Local Union Plan to include copies of newsletters issued after January 1, 2014.

p. 40 Art. VII, Sec. 8(d) requires the IBT and subordinate bodies to submit originals of newsletters issued after January 4, 2015.

p. 15 Art. II, Sec. 5(a) provides that nominations shall take place during January, February or March of 2016.

p. 5 The Timetable of Events directs that nominations must be taken from January 3, 2016 to March 10, 2016.

p. 17 Art. II, Sec. 7 requires that elections be held between February 22, 2016 and April 30, 2016.

p. 5 The Timetable of Events directs that delegate elections be held from February 21 to May 2, 2016.

It would make sense for the Election Supervisor's office to prepare standardized "Information for Candidates" and "Information for Union Employees" for distribution by the local unions. There may be some others that would be useful. Any chance?

**Comment From Matthew Fitch, Merriman River Associates**

Submitted *via* email, April 29, 2015

Q1. These rules, as in prior rules, allow the ballots to be printed as soon as 15 days after nominations but not mailed before 30 days after nominations. If that 30 day window is to allow protest resolution, it seems like a long gap between printing and mailing, especially since pre-election protests could impact the make-up of the ballot and I was curious as to the rationale. It matters only in that the 51 days pushes most January nominations into early March. With the E2 standard for Delegate elections, it shouldn't matter much, but I was wondering if you could shed some light on that timing.

Q2. You have language that allows electronic voting if it allowed by law and the system is approved. I only have one local at this time who is interested in this (and they are fine with mail anyway) but it raises a couple of questions. Does "allowed by law" mean that electronic voting be specifically permitted for private organizations, or for official government elections?

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What if the law is silent? Further, many locals have members that live in more than one state. Would the applicable law be only in the home state of the local? What if electronic voting were allowed in Ohio, where the hypothetical local is headquartered, but prohibited in Indiana, where many members live?

Comment 1: In prior election cycles, rules and forms dictated that mail must be received at the Post Office by 9:00 am on the day of the count. Post Offices vary in how quickly they post the days mail to a box. 11:00 am or even noon is a safer standard if you are looking to set one.

Comment 2: Please consider offering guidance that elections conducted using business reply mail NOT be held on a Monday. Most Post Offices have cut out weekend hours for Business Mail Entry units. That means that any mail arriving after about noon on Friday will not arrive in the Post Office Box until Tuesday morning.

**Submission From David Hoffa, Counsel to the Hoffa-Hall 2016 Campaign**  
Submitted *via* email, May 22, 2015

The Hoffa-Hall 2016 Campaign is not submitting Rules Comments for the 2016 Election Rules.

# **EXHIBIT E-2**



## Kircher, Suetholz

### & Grayson, PSC

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#### Louisville Office

David O'Brien Suetholz

Neal B. Hayes

Ellen Yonts Suetholz

Eric O. Gill

Alexandra O. White

William H. Emmons

Kimberly M. Hibbard

515 Park Avenue

Louisville, KY 40208

T: 502.636.4333

F: 502.636.4342

Attorneys licensed in Ohio, Kentucky, Indiana,  
and Florida

#### Cincinnati Office

Thomas J. Kircher

Brennan C. Grayson

Paul Breidenbach

830 Main Street, Suite 906

Cincinnati, OH 45202

T: 513.381.2224

F: 513.381.2225

Attorneys licensed in Ohio and Kentucky

May 8, 2015

**SENT CERTIFIED MAIL and EMAIL to  
ElectionSupervisor@ibtvote.org**

Hon. Richard W. Mark  
Office of the Election Supervisor  
1050 17<sup>th</sup> Street, N.W. Suite 375  
Washington D.C. 20036

**Re: Official Comment by Announced Candidate for  
International Office Fred Zuckerman on Proposed Rules  
for the 2015-16 IBT International Union Delegate and  
Officer Election**

Dear Mr. Mark:

I am respectfully submitting on behalf of announced Candidate for International Office Fred Zuckerman ("Candidate Zuckerman") the following comments and requests for amendments to the Proposed Rules for the 2015-2016 IBT International Union Delegate and Officer Election ("Proposed Rules") pursuant to the Stipulated Agreement and Order filed on February 18, 2015 in *United States of America v. International Brotherhood of Teamsters, et al.*, 1:88-cv-04486-LAP.

Candidate Zuckerman requests the following changes to the Proposed Rules:

#### Comment and Request 1.

The purpose of the Proposed Rules is to afford IBT delegates and the membership at large a "fair, honest, open and informed election process." To that end, Candidate Zuckerman requests that the nomination process found in Article III be amended to ensure that a delegate nominating a candidate for International office not be drowned out by unruly behavior at the Convention. Nominating delegates should have the right to appeal to the chair to maintain order so that their nomination speech is heard. This request clearly goes to the heart of the Proposed Rules mentioned above.



*Requested Proposal*

ARTICLE III – The International Convention and Nominations of Candidates For International Office  
5. Nominations

(c) The Order of floor nominations of candidates for the same position shall be determined by a lot drawing conducted by the Election Supervisor. No candidate shall make or, second his/her own nomination. Candidates shall be limited to a single nominator and a single seconder. The Election Supervisor shall determine the amount of time to be allocated for nominating and seconding speeches for candidates for each position. A member nominating a candidate for International office, or seconding the nomination of a candidate for International office, may state that the candidate is being nominated, or the candidate's nomination is being seconded, as a member of a slate and further may identify such slate by name. A member nominating a candidate for International office, or seconding a nomination of a candidate for International office may appeal to the Election Supervisor or his designee who shall maintain order on the convention floor to allow the nomination speech to be heard.

Comment and Request 2.

In order to promote the “fair, honest, open and informed participation of the IBT membership” it is essential that the Proposed Rules ensure that the membership have access to direct information from the nominated candidates for International office and especially the Office of the General President. Article VII, Section 6 provides for specific candidate forums that help the IBT membership have access to the nominated candidates and their respective positions. The use of a surrogate speaker for a candidate undermines this goal stated above.

*Requested Proposal*

ARTICLE VII- Campaigning and Access

6. International Officer Candidate Forums

(d) Only candidates nominated for the office of General President may participate in the required General President candidate forum; ~~provided, however, that a candidate nominated for the office of General President who belongs to a slate that includes a candidate nominated for the Office of General Secretary-Treasurer may designate the candidate nominated for the office of General Secretary-Treasurer to appear as the candidate's representative at the forum. The designation shall be made in writing and submitted to the Election Supervisor's office no later than the thirtieth day after the adjournment of the International Convention.~~

Comment and Request 3.

The Proposed Rules should enshrine the use of simple and cost effective technology that promote the “fair, honest, open and informed participation of the IBT membership” in the election process. The use of live streaming video is widely available and has the potential to reach the largest number of IBT members to promote the goal stated above.



*Requested Proposal*

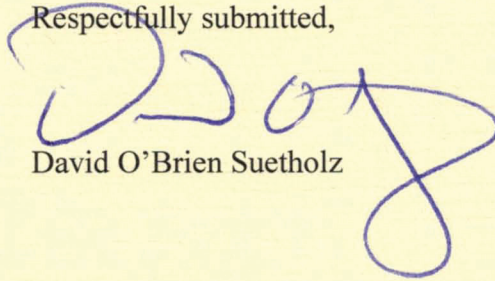
ARTICLE VII- Campaigning and Access

6. International Officer Candidate Forums

(e) The Election Supervisor shall broadly publicize notice of the forum to the IBT membership in advance of the forum, and shall effectively distribute information about the forum and the recording and live streaming of the forum to the IBT membership. The manner of distribution shall be determined by the Election Supervisor, after consultation with the IBT and the nominated candidates or their representatives. In making this determination, the Election Supervisor shall consider how best to use available resources and other technology to reach the broadest possible audience of the IBT electorate at a reasonable cost.

Thank you for your consideration of these changes to the Proposed Rules and for your commitment to the membership of the International Brotherhood of Teamsters.

Respectfully submitted,



David O'Brien Suetholz

cc: Fred Zuckerman



# **EXHIBIT E-3**

BARBARA HARVEY  
ATTORNEY  
1394 EAST JEFFERSON AVENUE  
DETROIT, MICHIGAN 48207  
(313) 567-4228  
blmharvey@sbcglobal.net

May 22, 2015

Richard W. Mark, Esq., IBT Election Supervisor  
1050 17<sup>th</sup> Street, N.W. Suite 375  
Washington D.C. 20036  
*Via email to:* ElectionSupervisor@ibtvote.org

*Re: Comments by Independent Committee TDU on Proposed 2016 Election Rules*

Dear Mr. Mark:

These comments on the proposed *Election Rules* are submitted, in response to your invitation, on behalf of Teamsters for a Democratic Union, an independent committee under the past and proposed *Election Rules*.

In general, TDU finds that the changes that you have proposed to the 2011 *Rules* strengthen and improve their functionality, and we thank you for your thoughtfulness. Presented below are two TDU proposals and two suggested refinements in favor of the good suggestions made by candidate Fred Zuckerman. TDU views its two proposals and the second proposal made by Mr. Zuckerman, in particular, as being of critical importance to the success of the election.

TDU's first proposal is important to the fairness of the election protest process and the effectiveness of protest advocacy. TDU's second proposal requests correction of what TDU views as the creation of discretionary authority that provides an opening for critical breaches in the integrity of delegate elections – in future elections, in particular. The integrity of delegate elections is the essential prerequisite for the occurrence of contested officer elections.

*Comment #1 – Article 1, § 2:*

This proposal seeks to provide a continuing remedy for the absence of a full publicly available election database. The foundational body of protests, decisions, advisories, reports, and other interpretative issuances in the 1991 and 1996 election cycles, including the 1997 rerun election, are not yet either public or accessible to members and TDU. This problem raises a due process issue: Only members and independent committees have no access to the data.

TDU appreciates that you have promised to make this data available and, until then, to provide copies of any decisions requested. We ask that you advise us of the schedule on which the data will be posted online and integrated into the search engine database. Counsel for TDU cannot in all contexts ask for specific 1991 and 1996 protest decisions or for data addressing a specific issue without

compromising the attorney-client and work product privileges – a dilemma that you will surely appreciate.

*Proposal #1:*

Amend Article I, ¶ 2 with the addition indicated below:

Subject to the 2016 Election Agreement, the Election Supervisor has the authority to interpret, to enforce, and, when necessary, to amend the Rules. The Election Supervisor has the authority to take all necessary actions, consistent with these Rules, to ensure fair, honest, open, and informed elections. In exercising these powers, the Election Supervisor shall consider and apply, where applicable, precedents and decisions issued during the 1990-91, 1995-96, 2000-2001, 2005-2006 and 2010-2011 International Elections and the 1997-98 Rerun Election, and shall post to the Election Supervisor’s official public election web site all election protests, decisions, advisories, notices, and reports from all of those elections, and shall integrate all such data into the official web site search engine database.

*Comment #2 – Article II, § 2:*

Proposed *Election Rules*, Art. II, § 2, opens the door to alternatives to mail ballot voting in delegate elections, specifying paperless electronic voting as an example of such alternatives. For the reasons below, TDU urges you to adhere to mandatory mail ballot voting in all cases.

When the RICO case was filed, the voting method of choice in mobbed-up Teamster locals was walk-in voting. Walk-in voting was, at that time -- before the advent of electronic voting -- the voting method most amenable to coercion and fraud. Locals offered members free buses from workplaces to union halls, for walk-in votes. Members who opposed the incumbent candidates dared not board these buses, because past history had taught them that they might wind up at the hospital instead of the union hall. They had to provide their own transportation to the union hall, at risk of expensive damage to their cars or tires in the union parking lot. Walk-in voting was designed to encourage a good turnout by supporters of the incumbent slates and to attach too high a price for voting by opponents. It is unlikely to be much different today.

In 1990, presumably without awareness of such abuses, the Election Officer’s *Rules* were similar to the currently proposed rule, granting discretion to the Election Officer to determine whether balloting in delegate elections would be walk-in or mail ballot. *See* Article II, § 2(b)(5) (August 1, 1990). I have been advised that voting under this rule was marred by serious election misconduct in at least two local unions – Locals 745 in Dallas (T.C. Stone) and 391 in North Carolina (R.V. Durham). Consequently, the 1995-96 *Rules* mandated mail ballot delegate elections: “All elections for Local Union delegates and alternates to the Convention shall be by mail ballot, unless the Election Officer determines that there are compelling reasons for in-person balloting...” *Election Rules*, Article II, § 2 (1995-1996). All rules since then, until now, have required mail ballot delegate elections, as well as mail ballot officer elections. *Election Rules*, Article II, § 2 (2010-2011) (“All elections for Local Union delegates and alternate delegates to the Convention shall be by mail ballot....”).



With the advent of electronic voting, walk-in voting is no longer the only method susceptible to malfunctioning and fraud. Electronic voting leaves no paper trail and is the most notoriously untrustworthy alternative to a mail ballot, although for different reasons. The Brennan Center for Justice reported in 2010 that paperless voting machines had caused the miscount or loss of up to tens of thousands of votes in nine states. One example, from a single Fairfax County, VA precinct in 2009, disclosed that “showed a total of 359 votes cast, with 377 votes recorded for the Republican, 328 for the Democrat, and eighteen for other candidates, for a total of 723 votes – or 364 more votes recorded than cast.”<sup>1</sup> The Center noted:

Our study shows that election officials and the public are often completely reliant on the private companies that sell and service this voting equipment and related service contracts to voluntarily keep them aware of potential problems with those systems. As one election official we interviewed noted, “vendors are in the business of selling machines, and often don’t have an incentive” to inform present and future customers of certain problems with their systems. The core thesis of this report is simple: we need a new and better regulatory structure ....<sup>2</sup>

Princeton University researchers detailed a variety of catastrophic attack scenarios on electronic voting, concluding, “Many computer scientists doubt that paperless [digital voting machines] can be made reliable and secure, and they expect that any failures of such systems would likely go undetected.” The abstract of their Princeton University study reported on the electronic voting machinery that it studied:

Analysis of the machine, in light of real election procedures, shows that it is vulnerable to extremely serious attacks. For example, an attacker who gets physical access to a machine or its removable memory card for as little as one minute could install malicious code; malicious code on a machine could steal votes undetectably, modifying all records, logs, and counters to be consistent with the fraudulent vote count it creates. An attacker could also create malicious code that spreads automatically and silently from machine to machine during normal election activities—a voting-machine virus. We have constructed working demonstrations of these attacks in our lab. Mitigating these threats will require changes to the voting machine’s hardware and software and the adoption of more rigorous election procedures.<sup>3</sup>

The electronic Florida voting scandal in the 1990 Presidential election, culminating in the famous lawsuit, *Bush v. Gore*, seriously undermined public confidence in electronic voting.

There is no safe way to resort to electronic voting in a Teamster International Union election, where there is money and motive to employ sophisticated hackers and no trustworthy mechanisms for

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<sup>1</sup> Brennan Center, “Voting System Failures: A Database Solution,” at p.20. The report is posted online at [http://brennan.3cdn.net/c5b929b2020a596ecc\\_eem6bbtcz.pdf](http://brennan.3cdn.net/c5b929b2020a596ecc_eem6bbtcz.pdf).

<sup>2</sup> *Id.*, at 1.

<sup>3</sup> Feldman, Halderman, and Felten, “Security Analysis of the Diebold AccuVote-TS Voting Machine,” at 1 (Princeton University 2006).

preventing them from ruining an election and IBT voter confidence. We urge the parties to reinstate the 2011 rule until some future time, when there are the sort of safeguards and governmental regulatory mechanisms in place that were detailed as requirements in the Brennan Center's report.

Proposal #2:

Amend proposed rule as shown below, reverting to the version adopted for the 2010-2011 election cycle:

All elections for Local Union delegates and alternate delegates to the Convention shall be by mail ballot ~~unless an alternate method of balloting (for example: internet or other electronic voting) is both allowed by law and is specifically approved by the Election Supervisor for use in connection with a specific Local Union Plan. Any alternate method of balloting shall be approved only if the Election Supervisor determines that the method provides protection and security for the member's secret ballot at least equivalent to the mail ballot.~~ Mail balloting shall be conducted as set forth in this Article.

***Comments on proposals by Candidate Fred Zuckerman:***

TDU supports the suggestions made by candidate Fred Zuckerman. The following is submitted as friendly efforts to strengthen these suggestions:

Comment on Proposal #1 - Article III, § (b):

Order and respectful listening at conventions has at times made it impossible for nomination speeches and other speakers to be heard. Unashamed and aggressive homophobic and misogynous outbursts in response to remarks from the podium by all members of former Local 2000 who dared to stand before that convention caused obviously acute emotional distress and long-term bitterness and may have sowed the seeds of a decertification campaign that began later at that Local; that campaign was ultimately successful, resulting in the loss of more than 10,000 members. It is suggested that the cure for such misconduct is a strict, clear, and simple rule, distributed in advance of the Convention, with immediate and vigorous enforcement of the rule *by sergeants-at-arms appointed by and responsible only to the ES*. The appropriate remedy for shouting down speakers so that they cannot be heard, which has been an increasingly severe problem, is to promptly remove the disrupters from the session and, depending upon circumstances, the remainder of the Convention, including the loss of any voting privileges.

TDU therefore recommends the following friendly amendment to the proposal:

The Election Supervisor shall supervise the floor nomination process and the secret ballot nomination vote and shall maintain order on the convention floor, enforced by sergeants-at-arms appointed by the Election Supervisor and responsible solely to the Election Supervisor, to allow all speakers and nomination speeches to be heard. The Election Supervisor shall provide,

distribute in advance of the Convention, and enforce supplemental rules of conduct and decorum. Violation of the rules shall result in such appropriate and immediate disciplinary action by the Election Supervisor as s/he may deem appropriate, including but not limited to ejection of disrupters from the proceedings, the imposition of personal fines, and suspension of all further participation rights in Convention proceedings, including voting, subject to the right to file a protest. The Election Supervisor shall determine the schedule and procedures for such nominations in consultation with the International Union with the purpose of completing the nominations efficiently and cost effectively consistent with the preservation of the rights guaranteed to the candidates, delegates, and membership by the Rules and applicable law. The schedule and procedures shall be embodied in supplemental rules subject to the approval of the General Executive Board and the Government pursuant to the 2016 Election Agreement, and those supplemental rules shall be published to all declared candidates, IBT affiliates, delegates and alternate delegates at least sixty (60) days prior to the opening of the Convention. The procedures established for the nomination of International Union officers shall, in any event, be consistent with the provisions of this Article.

Comment on Proposal #2 – Article VII, § 6(d):

TDU has repeatedly emphasized the importance of limiting participation in the required candidate forum to the candidates themselves – no stand-ins allowed. If a candidate is unwilling or unavailable to participate, the forum should proceed without the absent candidate, allowing other candidates to present themselves to the membership, live.

The candidate forum is of great importance to informed voting, being for a very large number of members the only opportunity to assess candidates on their feet, speaking to their vision of a better union and responding to questions. Its value is significantly undermined by inviting stand-ins for candidates, attaching no consequences to a candidate's tactical decision to "dodge the bullet." The primary value of the forum is to allow members to measure candidates by how they all respond to the same questions and interact with each other. Allowing stand-ins completely removes this important aspect of the forum, by allowing a candidate who will not serve as the International Union's principal officer to stand in for the candidate who is running for that position.

TDU strongly supports this important proposal to eliminate stand-ins, an essential measure to a meaningful forum. Its presence in the candidate forum rule has significantly diminished the provision's value.

Comment on Proposal #3 – Article VII, § 6(e):

TDU agrees that the use of online streaming video has increased so dramatically since the last election cycle that the proposed standardization of online streaming as at least one of the mechanisms for distribution of the recording is appropriate. Additionally, because there remains a significant number of members who do not have access to or simply do not understand or use computers, it remains appropriate to offer such members other means of viewing the candidate forum.



TDU therefore recommends the following friendly amendment to the proposal:

The Election Supervisor shall broadly publicize notice of the forum to the IBT membership in advance of the forum, and shall effectively distribute information about the forum and the recording and live streaming of the forum to the IBT membership. The manner of distribution shall be determined by the Election Supervisor, after consultation with the IBT and the nominated candidates or their representatives. In making this determination, the Election Supervisor shall consider how best to use available resources and other technology to reach the broadest possible audience of the IBT electorate at a reasonable cost, including members who do not have access to or use computer technology, and shall use such means toward the goal of distributing the forum recording to all members, within the bounds of available resources.

Thank you for requesting and considering these comments.

Respectfully submitted,

/s/

Barbara Harvey  
Counsel for Teamsters for a Democratic Union

Ken Paff  
David Suetholz, Esq.