

OFFICE OF THE ELECTION SUPERVISOR
for the
INTERNATIONAL BROTHERHOOD OF TEAMSTERS

IN RE: SANDY POPE,)	Protest Decision 2011 ESD 349
)	Issued: October 24, 2011
Protestor.)	OES Case No. P-352-101711-MW
_____)	

The Sandy Pope campaign filed a pre-election protest pursuant to Article XIII, Section 2(b) of the Rules for the 2010-2011 IBT International Union Delegate and Officer Election (“*Rules*”). The protest alleged that ballot-qualified members of Local Union 320 had not received ballots, in violation of the *Rules*.

Election Supervisor representative Kathryn Naylor investigated this protest.

Findings of Fact and Analysis

On October 6, 2011, the OES mailed 1,250,984 ballot packages to all IBT members in the United States and Canada. OES set October 6 as the expected ballot mailout date several months in advance of the event, and published that date in reports to the membership distributed in the August and September *Teamster* magazines. Because of the lead time required to print, stuff, and address the ballot packages for this large mailing, the membership list used was generated September 16, 2011. As required by Definition 4 of the *Rules*, ballot packages were sent only to active members and members, whether active or not, who are employed in the seasonal food industry and are members of a seasonal food industry local union. Ballots were not mailed to members on withdrawal status because those members are not active and therefore are not ballot-qualified.¹

The overall membership of the IBT changes continuously, and members change from withdrawal to active status on a near-daily basis. To capture members who became ballot-qualified after September 16, the date the original mailing list was generated, and the October 6 date of mailing, the OES generated a list of members who became newly active between those two dates for the purpose of conducting a supplemental mailing. Using this supplemental list, OES prepared and mailed 26,303 additional ballot packages. This supplemental mailing was completed October 21, 2011.

The protest alleged that bargaining units of school bus drivers employed under the jurisdiction of Local Union 320 were not sent ballots. Investigation showed that these drivers work September through June and are placed on automatic seasonal withdrawal annually for the months of July and August. Withdrawal status excuses the dues obligation for the months it is effective. Although the bus drivers typically recommence work in September, some of their employers do not remit dues for them until October. The local union’s receipt of dues is the event that triggers the change in status of these members from withdrawal to active.

Investigation showed that Local Union 320 received and posted the dues remittances for many of the school districts under its jurisdiction prior to the date the mailing list for the supplemental mailing of ballots was generated. However, dues from employers of four bargaining

¹ Unless, as noted, they are seasonal food industry employees who are members of a seasonal food industry local union.

October 24, 2011

units – Inver Grove Heights, Dover Eyota, North Branch, and Rush City – were received after the list for the supplemental mailing of ballot packages was generated on October 6. Investigation demonstrated that dues were received and posted for the employees in these four units by Friday, October 21.

The protest alleged, without substantiation, that continuing the members employed at these four school districts on withdrawal status was the result of intentional manipulation by the local union. Investigation showed that dues remittances were received from these employers after the mailing list for the supplemental mailing of ballot packages was generated, and the dues remittances themselves were the first notice the local union had that the particular members employed at those districts had recommenced work under the local union's jurisdiction.

In *Leedham Slate*, 2001 EAD 527 (October 26, 2001), the protestor identified four bargaining units of school bus drivers in two local unions who were not sent ballots because they were on withdrawal status at the time the mailing list was generated three weeks before the date ballot packages were mailed. Subsequently, all of these members became ballot-qualified prior to the date ballots in the International officer election were tallied. Election Administrator Wertheimer concluded that members who became ballot-qualified after the date the mailing list was first generated would be sent ballot packages only if they called requesting them. The Election Appeals Master reversed and ordered that ballot packages be sent to all members in the four bargaining units. 01 EAM 104 (November 2, 2001).

In the present case, the IBT urges that, if a second supplemental mailing of ballot packages is to be conducted, it be done on a union-wide basis to insure that all members who have become active since the date the list for the supplemental mailing was generated will be captured. We agree.

Accordingly, we have generated a mailing list for a second supplemental mailing. This list captures members who became active between October 6 and October 24. This second supplemental mailing, consisting of an additional 13,169 ballot packages, will be completed by October 28.

On this basis, we deem this protest RESOLVED.

Any interested party not satisfied with this determination may request a hearing before the Election Appeals Master within two (2) working days of receipt of this decision. The parties are reminded that, absent extraordinary circumstances, no party may rely upon evidence that was not presented to the Office of the Election Supervisor in any such appeal. Requests for a hearing shall be made in writing, shall specify the basis for the appeal, and shall be served upon:

Kenneth Conboy
Election Appeals Master
Latham & Watkins
885 Third Avenue, Suite 1000
New York, NY 10022
Fax: (212) 751-4864

Pope, 2011 ESD 349
October 24, 2011

Copies of the request for hearing must be served upon the parties, as well as upon the Election Supervisor for the International Brotherhood of Teamsters, 1801 K Street, N.W., Suite 421 L, Washington, D.C. 20006, all within the time prescribed above. A copy of the protest must accompany the request for hearing.

Richard W. Mark
Election Supervisor

cc: Kenneth Conboy
2011 ESD 349

Pope, 2011 ESD 349

October 24, 2011

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