

OFFICE OF THE ELECTION SUPERVISOR
for the
INTERNATIONAL BROTHERHOOD OF TEAMSTERS

IN RE: SAM BUCALO,)	Protest Decision 2016 ESD 193
)	Issued: May 4, 2016
Protestor.)	OES Case No. P-229-032016-ME
_____)	

Sam Bucalo, member and secretary-treasurer of Local Union 100, filed a pre-election protest pursuant to Article XIII, Section 2(b) of the Rules for the 2015-2016 IBT International Union Delegate and Officer Election (“*Rules*”). The protest alleged that Bucalo’s Teamsters United slate was denied timely distribution of its campaign mailing, in violation of the *Rules*.

Election Supervisor representative Dan Walsh investigated this protest.

Findings of Fact and Analysis

Local Union 100 is entitled to election five delegates and two alternate delegates. Three full slates and one unaffiliated delegate candidate competed for these positions. The Teamsters United slate was led by protestor Bucalo; the Local 100 Teamsters First slate was comprised of the local union principal officer Dave Webster and was comprised of other officers and business agents; the No More Hoffa slate was a rank-and-file slate.

Each of the three slates mailed campaign literature to the local union membership. Article VII, Section 7 requires the union to “honor requests for distribution of literature by any lawful class or type of mail or postage, including, to the extent permitted by postal regulations, utilization of any nonprofit organization bulk-rate permit ... utilized by the Local Union.” Local Union 100 established a written procedure for campaign mailings under this *Rules* provision, advising candidates that mailings were to be done by Reliable Letter & Bulk Mailing Service pursuant to written requests made by candidates to the local union secretary-treasurer at least five days in advance of the date desired for mailing. The written procedure further advised that it was the local union’s responsibility to inform Reliable of the desired mailing date and to provide that mail house with the address labels for the membership. The written procedure instructed the candidates to deliver their campaign literature directly to the mail house. The procedure laid out the prices for labels, envelopes, postage and, if desired, stuffing, folding, labeling, and delivery to the post office.

Ballot packages were scheduled for mailing on March 8, 2016. Each slate chose to conduct a mailing, and followed the local union’s procedures to accomplish the mailing. That is, each slate submitted a written request to the local union to conduct a mailing, each specifying the desired mailing date. Thus, the No More Hoffa slate requested on February 25 that its mailing be sent on March 2; Bucalo’s Teamsters United slate made written request on February 26 for a March 3 mailing; and the Teamsters First slate’s February 29 request asked that its mailing be sent on March 4. Sarah McFarland, office manager for the local union, told our investigator that she hand-delivered three sealed envelopes each containing a set of mailing labels in zip code order to Reliable on March 2, and a Reliable representative signed a letter acknowledging receipt of each set of labels. McFarland received an estimate of mailing costs from Reliable for each slate’s mailing, notified the slate representative of the estimate, and, once she collected the cost from the representative, notified Reliable that it was authorized to perform the mailing. The arrangement between Reliable and the local union is that the mail house

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bills the union for the campaign literature distribution, and the union pays the invoice with the funds it has collected from the candidate or slate.

As stated in the local union's written procedure for campaign mailings, the candidate or slate delivers the mailing directly to the mail house for labeling and processing. Both the No More Hoffa and the Teamsters First slates each timely delivered to Reliable two-sided oversize postcards they had produced, and Reliable processed and delivered the postcards to the post office on the dates those slates had requested. The mailing for Bucalo's slate was not timely delivered to him by his printer, however. His slate's mailing consisted of four 11" x 17" sheets of newsprint, folded to create a 16-page tabloid-style newsletter. Although Bucalo had requested that his slate's mailing be delivered by Reliable to the post office on March 3, he did not receive it from his printer until March 7. He contacted Reliable to advise that his printer was late and that he would deliver the newsletter to Reliable as soon as he received it. He did so in the late morning of March 7. Reliable staff began processing the mailing immediately. Their representative told our investigator that the multi-page large format of Bucalo's campaign piece made processing more complicated and time consuming than the postcards the other slates had delivered to Reliable.

Reliable finished process Bucalo's mailing, consisting of more than 4,300 pieces, on March 8 at about 3:30 p.m., too late for the post office's daily deadline for receipt of bulk mail. Accordingly, Reliable delivered the Bucalo mailing to the post office on March 9.

The earliest in-home receipts of Bucalo's mailer were reported to Bucalo on March 21, some twelve days after it was delivered to the post office and thirteen days after ballots were mailed. Bucalo told our investigator that he learned that, as of March 21, some 646 ballot envelopes containing voted ballots had been returned to the post office. At the tally conducted April 5, some 881 ballots were counted. As such, nearly three-quarters of the ballots counted were cast before Bucalo's campaign mailing was delivered to members' homes. In contrast, the postcards mailed on behalf of the other slates were delivered between March 7 and 9, before any voted ballots were returned.

A postal clerk at the Business Mail Entry Unit of the post office in Cincinnati confirmed to our investigator that Bucalo's mailing was delivered to the post office by Reliable on March 9. The clerk further stated that the bulk mailing, termed "standard mail" by the postal service, can take ten business days or more for delivery. The postal service makes no guarantee of delivery dates for standard mail because they "work it last," after express, priority, and first class mail. The processing and delivery of standard mail depends on the volume the postal service has in the higher classes of mail on the same day.

Bucalo was concerned about the whereabouts of his mailing when it did not arrive within a few days after March 9. He visited Reliable on March 14 and told the manager no one had received his mailer. The manager confirmed the mailing had been delivered to the post office on March 9. Bucalo spoke to the local union election chairman the same day. Bucalo returned to Reliable again on March 18 with more questions. He filed his protest on March 20.

The *Rules* require the local union to facilitate campaign mailings by candidates using the local union's membership list. We find that Local Union 100 complied with this requirement, providing advance written notice to all candidates of the procedures to be followed for conducting campaign mailings, and the means by which candidates could utilize the local union's bulk mail permit. We

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further find that Local Union 100 provided the service to all candidates who requested it, and did so without discrimination for or against any candidate. Accordingly, we find no *Rules* violation on the part of the local union.

We also find that Reliable performed its service for Bucalo promptly and without delay, labeling and packaging the mailing so as to meet postal service regulations, and delivering it to the post office expeditiously. Accordingly, we find no *Rules* violation on the part of Reliable.

The postal service delivered Bucalo's mailing within the ten business days that it reports is typical for bulk service.

No evidence was presented that Bucalo's rights under Article VII, Section 7 were violated. The delivery of his slate's mailer on a date or dates substantially later than what he wished is likely the result of a combination of factors, including Bucalo's late delivery of his material to Reliable, the style and corresponding bulk of the mailer that Bucalo chose to prepare, and the volume of higher classes of mail the post office processed and delivered during the same period Bucalo's material was in the mail stream.

We further note that Bucalo's protest was filed six days after the date he first suspected that delivery of his mailer had not been accomplished. Article XIII, Section 2(b) states that protests are waived if not filed within two working days of the date the protestor knew or should have known a violation occurred.

For these reasons, we DENY this protest.

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:

Kathleen A. Roberts
Election Appeals Master
JAMS
620 Eighth Avenue, 34th floor
New York, NY 10018
kroberts@jamsadr.com

Copies of the request for hearing must be served upon the parties, as well as upon the Election Supervisor for the International Brotherhood of Teamsters, 1050 17th Street, N.W., Suite 375, Washington, D.C. 20036, all within the time prescribed above. A copy of the protest must accompany the request for hearing.

Richard W. Mark
Election Supervisor

cc: Kathleen A. Roberts
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