

**OFFICE OF THE ELECTION SUPERVISOR
for the
INTERNATIONAL BROTHERHOOD OF TEAMSTERS**

IN RE: HOFFA-HALL 2016,)	Protest Decision 2016 ESD 325
)	Issued: November 3, 2016
Protestor.)	OES Case No. P-408-110216-AT
_____)	

Hoffa-Hall 2016 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 prohibited ballot collection on behalf of Teamsters United.

Election Supervisor representative Jeffrey Ellison investigated this protest.

Findings of Fact and Analysis

Article IV, Section 12 of the *Rules* declares that “[n]o person or entity may encourage or require an IBT member to mark his/her ballot in the presence of another person or to give his/her ballot to any person or entity for marking or mailing.”

A photo accompanying the protest depicted a hand holding three ballot return envelopes, fanned out like a hand of playing cards. The caption attached to the photo read: “Zuckerman 3, Hoffa 0.”

The photo appeared on the Facebook page of Eric Holstein, a member of Local Union 639. The Facebook post was “liked” by Fred Zuckerman, candidate for IBT General President on the Teamsters United slate. Both Holstein’s post and Zuckerman’s “like” were removed from their respective Facebook pages promptly after the protest was acknowledged by OES.

The protest asserts that all three ballots should be voided.

Holstein told our investigator that he took the photo and that the hand appearing in the photo was his. He stated that all three ballot return envelopes that appeared in the photo were sealed. He stated further that one of the ballot return envelopes in the photo was his, one was the ballot of his domestic partner, who is also a Teamster member, and the final was the ballot of a co-worker.

Holstein stated that his domestic partner was present when the photo was taken; she asked him to mail her ballot. Holstein further stated that the co-worker whose ballot also was in the photo had asked him to mail it for him.¹

The domestic partner corroborated Holstein’s evidence in every respect concerning her ballot. Moreover, TITAN records corroborate that the two share the same address. Under these circumstances, we decline to construe Article IV, Section 12 so rigidly to prohibit a person from accepting for mailing the ballot of another member of the same household.

¹ We have only Holstein’s evidence with respect to the co-worker’s ballot. Efforts to reach the co-worker were unsuccessful, and he did not return our representative’s phone message.

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The circumstances with respect to the co-worker's ballot are similar to those presented in *Teamsters United*, 2016 ESD 155 (March 29, 2016), where a member asked another to mail his ballot for him, and the other agreed. In that case, we voided the ballot of the member, writing the following:

The *Rules*' prohibition on ballot collection is strong, and sound policy considerations support it. Here, Mineros accepted Colorado's sealed ballot return envelope for mailing by Mineros. The *Rules* declare, *inter alia*, that "[n]o person may encourage ... an IBT member ... to give his/her ballot to any person ... for ... mailing." Because we construe the ballot interference prohibition liberally we find that acceptance by Mineros of Colorado's ballot violates the *Rules* because his willingness to accept the envelope "encourage[d]" Colorado to give it to him.

In summary, the ballot of Holstein will not be voided under Article IV, Section 12 because the evidence shows that Holstein himself held the ballot that was displayed in the photo. Further, the ballot of Holstein's domestic partner will not be voided under the cited *Rules* provision because she and Holstein share living quarters and the policy considerations that support the prohibition against ballot collection are not implicated in such a circumstance. Finally, the ballot of the co-worker who gave his ballot to Holstein will be voided pursuant to Article IV, Section 12 and the *Teamsters United* decision just cited. The co-worker does not forfeit his right to vote, however. He may request, receive, and vote a duplicate ballot, which will be counted if received by November 14, 2016 and the member is otherwise eligible to cast a ballot. We order no further relief.

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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