

OFFICE OF THE ELECTION SUPERVISOR
for the
INTERNATIONAL BROTHERHOOD OF TEAMSTERS

IN RE: FRED ZUCKERMAN,)	Protest Decision 2016 ESD 326
)	Issued: November 7, 2016
Protestor.)	OES Case No. P-396-101916-GP
_____)	

In *Zuckerman*, 2016 ESD 324 (November 2, 2016), we found that officers and business agents of Local Union 120 violated the *Rules* by using union resources to support the Hoffa-Hall 2016 slate, specifically by sending text messages to union stewards at specific worksites urging them to turn out the vote for that slate and, with respect to one worksite, to collect ballots for that slate.

We ordered Local Union 120's officers and business agents to cease and desist from further *Rules* violations. We further ordered the local union to post a remedial notice on all union worksite bulletin boards. In addition, we ordered the local union to produce to us for campaign use by the Teamsters United slate the list of mobile phone numbers of its stewards. Finally, with respect to ballots that may have been tainted by the impermissible use of union resources, we ordered the following:

To remove the taint of the violations found here, we order Local Union 120 to SHOW CAUSE, no later than Friday, November 4, 2016, at noon EDT, why ballots, received after October 22 (or postmarked on or after October 19), returned from any member employed at a work location where business agents Rosenthal, Heeren and Gustafson have responsibility should not be VOIDED. We impose this show cause order because *prima facie* proof exists that the votes of members employed at these work locations were tainted by the partisan text messages business agents sent to stewards there. Local Union 120 members at locations served by those business agents who returned ballots on or after October 19 may call OES to request a replacement ballot.

Local Union 120 timely submitted affidavits of stewards employed at the worksites where we found that business agents had transmitted partisan text messages. All affidavits submitted were signed by the affiants and sworn under oath before a qualified notary. All affidavits but one stated that the steward received the text message but did not campaign for the Hoffa-Hall 2016 slate and did not threaten, force, intimidate, or attempt to coerce any member to vote for the Hoffa-Hall 2016 slate, and did not collect or attempt to collect ballots from any members. The remaining affidavit stated that the steward did not receive a text message from a business agent and, nonetheless, did not campaign for the Hoffa-Hall 2016 slate and did not threaten, force, intimidate, or attempt to coerce any member to vote for the Hoffa-Hall 2016 slate, and did not collect or attempt to collect ballots from any members.

Following receipt of these affidavits, we inquired of the protestor's counsel whether the protestor had any evidence to rebut or counter the affidavit evidence just described. We were informed that the protestor had nothing to submit on this point.

Accordingly, we find that Local Union 120 has shown cause why the ballots received after October 22 (or postmarked on or after October 19) from any member employed at a work location where business agents Rosenthal, Heeren and Gustafson have responsibility should not be voided. Therefore, the ballot received from each member of Local Union 120 who is eligible to vote shall be counted.

Zuckerman, 2016 ESD 326

November 7, 2016

We order Local Union 120 to post the notice attached to this decision on all worksite bulletin boards no later than Wednesday, November 9, 2016 and submit proof of compliance with this notice posting no later than Thursday, November 10, 2016.

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
2016 ESD 326

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November 7, 2016

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Richard W. Mark
Election Supervisor

NOTICE TO MEMBERS OF TEAMSTERS LOCAL UNION 120

In a previous decision, the Election Supervisor found that officers and business agents of Local Union 120 violated the *Election Rules* by using local union resources to urge stewards to get out the vote for a particular slate of candidates in the IBT International officers election. In that decision, the Election Supervisor ordered Local Union 120 to show cause why ballots postmarked after October 19 or received after October 22 from members employed at particular worksites should not be voided because of the taint of these *Election Rules* violations.

Local Union 120 has submitted evidence that the *Election Rules* violations committed by its officers and business agents were not communicated by the stewards to the members at their worksites. Based on this evidence, the Election Supervisor has ruled that all ballots submitted by Local Union 120 members who are eligible to vote will be counted, provided they are received by the deadline of November 14, 2016.

The Election Supervisor has issued this decision in *Zuckerman*, 2016 ESD 326 (November 7, 2016). You may read this decision at <https://www.ibtvote.org/Protest-Decisions/esd2015/2016esd326>.

Any protest you have regarding your rights under the *Rules* or any conduct by any person or entity that violates the *Rules* should be filed with Richard W. Mark, 1050 17th Street, N.W., Suite 375, Washington, D.C. 20036, telephone: 844-428-8683, fax: 202-774-5526, email: electionsupervisor@ibtvote.org.

This is an official notice prepared and approved by Richard W. Mark, Election Supervisor for the International Brotherhood of Teamsters. It must remain posted on this bulletin board through November 15, 2016 and must not be defaced or covered up.