

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

<b>IN RE: MICHAEL BENNETT,</b>	)	Protest Decision 2016 ESD 241
	)	Issued: June 13, 2016
<b>Protestor.</b>	)	OES Case Nos. P-214-031016-MW
<hr/>	)	& P-242-032516-MW

Michael Bennett, member of Local Union 705, 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, designated Case No. P-214-031016-MW, alleged several instances in which the circumstances concerning election mechanics varied substantially from what the approved local union election plan stated would occur. In addition to this pre-election protest, Bennett filed a post-election protest pursuant to Article XIII, Section 3(b) of the *Rules*. The post-election protest alleged that turnout in the election was suppressed by use of a different post office for returned ballots than the election plan indicated would be used.

These protests were consolidated for investigation and decision. Election Supervisor representative Joe Childers investigated them.

**Findings of Fact and Analysis**

Local Union 705 is entitled to elect seventeen delegates and six alternate delegates. At the nominations meeting held January 17, 2016, two full slates and a single delegate candidate and a single alternate delegate candidate were nominated for these positions. Protestor Bennett was an alternate delegate candidate on the US Teamsters Dump Hoffa slate. The other full slate was the Moving Forward slate. At the tally of ballots conducted March 19, 2016, all candidates on the Moving Forward slate polled more ballots than any other candidate. On 3,333 ballots counted, the successful delegate candidate with the fewest votes tallied 1,108 ballots more than the unsuccessful candidate with the most votes (in percentage terms, the margin between these candidates was 64.8% of ballots counted to 31.5%); the corresponding margin in the alternate delegates race was 1,119 votes (64.6% to 31.0%).

Bennett’s pre-election protest alleged that the printing and mailing of ballots and the processing and mailing of duplicate ballots were substantially different than what was promised in the approved local union election plan.

**Printer address**

First, ballots were not printed at the address listed for the printer in the approved plan. On February 17, 2016, two members of protestor Bennett’s slate went to the address listed in the plan for Grace Printing and found that it was vacant and apparently had been for more than a year. They eventually found the correct address and proceeded to that location, arriving in time to observe the stuffing of ballot packages. Joel Young is an employee of Global Election Services (GES), which was contracted by Local Union 705 to conduct the delegates and alternate delegates election. He told our investigator that he prepared the proposed local union election plan and simply carried forward the address of Grace Printing from the plan used in 2011. GES had conducted Local Union 705’s officers election in Fall 2015 and had used Grace Printing for that election as well; Grace had by that time

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relocated to its current address. Young said he knew Grace was at the new address but failed to insert the correct address in the proposed local union election plan for the delegates and alternate delegates election. The principal officer declared the answers provided in the plan were “true and accurate,” and OES relied on that certification when approving the plan.

One purpose for listing the address of the printer in the approved plan is to allow persons who wish to observe the printing of ballots, the assembly of ballot packages, and the mailing of those packages to do so. This purpose may be frustrated if the person or entity responsible for preparing the plan is careless in the information supplied to fill out the plan.

Information received from an observer for protestor Bennett’s slate demonstrated that they were able to locate the current facility of Grace, located in a different city, despite the erroneous information in the plan. The observer told our investigator that he and his fellow observer arrived at Grace in time to observe the assembly of ballot packages and to verify that ballots were delivered to the post office for mailing on February 17, the date designated for mailing in the local union election plan. Because the observers were able to locate the printer in time to perform their observer function despite being misled by the inaccurate election plan GES prepared, we find they suffered no prejudice of their observer rights with respect to the printer location.

The observers found upon arrival at the printer that ballots had been printed several days before February 17. One observer stated that an employee of Grace Printing told him that the ballots were printed on February 9 and had been sitting in boxes on a pallet for more than a week. The observer told our investigator that Joel Young claimed the ballots were printed on February 16. Young denied to our investigator that the ballots were printed on February 9, offering to produce an email he claimed proved they could not have been printed prior to February 12. Printing of ballots is an observable event under the *Rules*. However, because no one sought to observe the printing of the ballots, the date they actually were printed is irrelevant to this protest. Moreover, the observers were able to monitor the assembly of ballot packages, verify the total number of packages assembled and mailed, and observe the actions taken with respect to ballot stock that remained after all packages had been assembled. Accordingly, we find no prejudice of observer rights because ballots may have been printed on a day earlier than February 16.

*Number of ballots printed*

The protest next alleged that Grace printed ballots far in excess of the number needed. The protest asserts that 15,700 ballots were printed, while the local union had only 14,360 members. The protestor questioned the need for an additional 1,340 ballots, suggesting that this was an excessive number that could be put to a fraudulent use.

An observer for the protestor’s slate told our investigator that approximately 1,200 extra ballots were printed and that he and his fellow observer watched as Grace employees destroyed approximately 1,000 of them. This action left 200 extra ballots to be kept in reserve for mailing duplicate ballots to members. According to the Certification re: Ballot Printing and Mailing (OES Form 20) prepared by Grace, 14,359 ballot envelopes were labeled, stuffed, and mailed. The observer said that a Grace employee told him the extra 200 ballots were sent to GES in New York for use in filling duplicate ballot requests. Of these, 145 duplicate ballots were mailed to members who requested them. Ten of the remaining blank ballots were used by GES for logic and accuracy testing at the count, and the

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remaining 45 blank ballots were sealed in an envelope signed by observers from each slate at the ballot count. On these facts, we find that all ballots printed by Grace were adequately accounted for. The vast bulk of the printed ballots were stuffed into ballot packages under observation. Observers then watched the destruction of all but 200 of the excess ballots, and the 200 were fully accounted for as used in the duplicate ballot process or as excess, unused ballots produced at the tally on March 19. Accordingly, we find no violation and no cause for concern on this aspect of the protest.

Duplicate ballots

The protest next alleged that at least three members of Local Union 705 who requested duplicate ballots from GES received instead ballots for another Teamsters local union. Investigation showed this allegation was true. The facts demonstrate that GES employee Gloria Jenkins, working from New York, was assigned the task of receiving phone calls from and mailing duplicate ballots to members of Local Union 705 requesting them. When one of those members, Jason Amodio, received a ballot for Local Union 177 in the mail, he reported this fact to OES representative Dennis Sarsany, who in turn emailed the following instruction to Maralin Falik, chief executive officer of GES, on March 7, 2016:

The Election Supervisor is concerned that the transmittal of the incorrect ballot to Mr. Amodio is not an isolated event. According to the GES Activity Report, sixteen [duplicate ballots] were mailed to LU 705 members on February 26, 2016. Please direct your staff to contact the other LU 705 members who your records indicate were sent ballots on that date to confirm that the correct ballot form was inserted into their packet and, if not, to take the necessary action to provide those members with a correct ballot on an expedited basis.

Jenkins, the GES employee who was responsible for mailing the duplicate ballots and who had sent the wrong duplicate ballots to at least two members, was interviewed on March 17, 2016. She told our investigator that GES was conducting Local Union 177's delegates and alternate delegates election. When she received the duplicate ballot request from Amodio, she mistakenly mailed him the duplicate package for Local Union 177 rather than Local Union 705. She said "at least" one other member of Local 705, who she identified as Paul Dlubisz, also received the wrong duplicate ballot package mailed on the same day as Amodio's package, February 26, 2016. She claimed that Dlubisz called to complain that he had received the wrong duplicate ballot mailing and that she then mailed a correct ballot package. However, examination of the final "Local 705 Delegate and Alt. Delegate Election – Activity Report" (Activity Report), dated March 16, 2016, and prepared by GES, records that Dlubisz was mailed only one duplicate ballot, on February 29, 2016, not February 26, 2016. If Dlubisz called GES to say he had been mailed the wrong duplicate ballot, there is no record to support that Jenkins mailed the second correct ballot as claimed. Jenkins also stated that she sent member Edward Swan, who received a duplicate ballot mailed February 26, 2016, a second duplicate ballot because she feared he had been sent the wrong duplicate ballot. The Activity Report, however, indicates that Swan was sent a second duplicate ballot, but not until March 10, 2016, after the date of Sarsany's email to Falik.

GES's Activity Report indicated that sixteen duplicate ballots were mailed to Local Union 705 members on February 26, 2016, the day that Amodio was sent the wrong ballot. We investigated GES's compliance with Sarsany's instruction that GES contact the other members of Local Union 705

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who were mailed duplicate ballots that day to inquire whether they received the correct ballot. Jenkins admitted to our investigator that GES did not comply with Sarsany's instructions that all members who were mailed duplicate ballots on February 26, 2016 be contacted to insure that they received the correct duplicate ballot. Jenkins told our investigator she "randomly" called "some of the guys." She did not keep records of the names of these members she telephoned and could only provide three names to our investigator. She stated that she "should have" made notes of who she called. Jenkins stated that she randomly sent new duplicate ballots to "some" of the members who were sent ballots on February 26, 2016, even though she did not phone them; however, the final Activity Report prepared by GES indicated that of those persons mailed duplicate ballots on February 26, 2016, only two, Jason Amodio and Edward Swan, received a second duplicate ballot, with Amodio's being sent by overnight mail.

Contradicting what Jenkins told our investigator, GES's principal, Falik, told our investigator that Jenkins had in fact called *all* sixteen Local Union 705 members who were mailed duplicate ballots on February 26, 2016, to inquire whether they had received the correct ballot. On April 22, 2016, the date she spoke to our investigator, Falik also sent the following narrative by email to our investigator which she claimed had been written by Jenkins and sent to OES representative Sarsany:

I Gloria Jenkins, processed and mailed several members of Local 705 the wrong ballot. I had several calls from Local 177 and Local 705. As I processed the labels for members of Local 705 I mistakenly used the packages of Local 177, putting the Local 705 labels on the Local 177 packages. I sent them to the post office to be mailed, afterward I realize what I had done. I immediately processed the proper packages to the following members:

1. I I<sup>1</sup> mailed Mr. Jason Amodio a Local 705 Duplicate Ballot on Monday, March 7, 2017, also I send him a Double Duplicate via UPS.
2. As per your instructions I call all the members, I also sent Duplicate Ballots to all the members, ones I contacted and others did not answer I sent Duplicate Ballots. All members called for Duplicate Ballots is sent Ballots.

The written statement Falik sent our investigator, purportedly written by Jenkins, and also purportedly sent to Sarsany, was not only contradicted by Jenkins's oral statement to our investigator but also by GES's own Activity Reports, which showed only that Amodio and Swan were sent a correct second duplicate ballot. Investigation also showed that Sarsany never received the email that Falik said Jenkins had sent him. The first OES representative to see the written statement Falik claimed Jenkins had written was our investigator, when Falik provided it to him directly.

Another member of Local Union 705, Devin Williams, telephoned OES to complain that he had never received a ballot from the original February 17, 2016 mailing or after calling GES on or about February 23, 2016 to request a duplicate ballot. Sarsany wrote Falik about this situation on March 9, 2016:

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<sup>1</sup> So in original.

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Last evening our office received another telephone call from a member of IBT Local 705, Mr. Devin Williams. Mr. Williams requested that we assist him in his effort to obtain a ballot for the Local 705 delegate election.

According to Mr. Williams:

After not having received a ballot package from the February 17, 2016 mailout, on or about February 23, 2016 he called the Global Election Service telephone support number and requested that a ballot be sent to him.

He informed us that he provided Global with his current address, [address redacted], at the time of his request;

Last week, he received a telephone message from GES advising him to call their office if he “received a ballot package from IBT Local 177.”

As of the afternoon of March 8, 2016, he had still not received a ballot package.

The GES Activity Report identifies Mr. Williams as a recipient of what the report characterizes as a “DUP.” While GES has never defined the terms used in their reports, we assume that a “DUP” means a duplicate ballot package sent to a member who was previously sent a ballot. It would be helpful if you could confirm that assumption or correct it if it is erroneous. The Activity Report notation includes a date, 3/1/2016 which, for lack of explanation by GES, we assume to be the date that the DUP ballot package was mailed to Mr. Williams.

The first priority is for GES to deliver a proper ballot package to Mr. Williams on an expedited basis and the Election Supervisor directs you to do so immediately.

But based on the information provided by Mr. Williams and GES, the Election Supervisor requests that you provide information regarding the following concerns:

It appears that a week passed between the time Mr. Williams called GES to request a ballot and the date the ballot package was mailed. This timing far exceeds the Election Supervisor’s mandate of a two day turnaround for ballot requests (which was referenced in the Local 705 Election Plan and the specific Global Election Services language inserted into the plan.)

What was the reason for Global’s telephone call to Mr. Williams about ballot distribution? Had Global planned to make such calls, or was there reason last week, before our March 7, 2016 email to you regarding Mr. Amodio, to believe that there was a problem with the delivery of correct ballots to IBT Local 705 members? If so, that suggests an issue that is more widespread than what we brought to your attention in our March 7 email.

Please provide a response addressing these concerns and confirm the steps taken to provide Mr. Williams with a proper ballot package.

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Sarsany never received a reply to this inquiry. However, during our investigator's interview with Falik, she claimed that Jenkins sent the following response to Sarsany:

Mr. Devin Williams, called the office requesting a Duplicate Ballot February 29, 2016 at 2:17 pm for a Duplicate Ballot, he was sent a Duplicate Ballot on March 1, 2016. The date on the Activity Report is the date the Duplicate Ballots is sent to the members.

After I realize I sent the wrong ballot to some of the members I called members making sure they received the ballots. I follow up from time to time with the members if they receive the ballots the Postal Service is slow.

According to the GES Activity Report, Williams was sent a second duplicate ballot on March 9, 2016, the same date as Sarsany's email to Falik, suggesting that GES complied with Sarsany's instruction that the "Election Supervisor directs you to [send Williams a duplicate ballot] immediately."

Post office address

The post-election protest asserted that the post office designated for return of voted ballots was not the one identified in the local union election plan. The plan stated that voted ballots would be picked up from the Fort Dearborn post office located at 340 North Dearborn Street, Chicago, Illinois 60610. However, on the morning of the count, the protestor, our investigator, and others accompanied GES's Young and the observers for both slates to a post office located on West Harrison Street in Chicago, where the voted ballots were retrieved. The West Harrison Street post office was not identified anywhere in the election plan as the post office to be used for returned ballots in Local Union 705's delegates and alternate delegates election. Bennett's post-election protest alleged that the change in post offices delayed receipt of ballots at the post office where Young and the observers picked up the ballots on March 19 and caused or contributed to what the protest called "low turnout of ballots" in the Local Union 705 election. The protest argued that ballots were misdirected to various post offices and then "stragglers" were received at the West Harrison post office after the date set for counting ballots.

We addressed this allegation in two ways. First, the Election Supervisor wrote Falik on April 7, 2016 as follows:

Dear Ms. Falik:

It has come to our attention that in at least two delegate elections in which Global Election Services was the local union's service provider, the United States Post Office used for the return of voted ballots was different than the one identified in the approved Local Union Election Plan.

One such instance occurred in the Local 705 election. As you know, the post office change generated a protest that is now being investigated (P-242-032516-MW). A second instance came to our attention on Tuesday, March 29, 2016 when Local 299 contacted OES Regional Director Bill Broberg regarding a typographical error in the

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address of the ballot return envelope. We learned at that time that ballot packages had been prepared to return voted ballots to a post office different from the one identified in the Local Union Election Plan.

Please explain why, when, and how the post office for collecting voted ballots for these local unions was changed, and whether the local, the general membership, or interested candidates were informed of the change at or before the time the decision was made. Also, our records reflect that Global is scheduled to perform one more delegate election ballot count in this cycle for Local Union 804 (April 14, 2016). We ask that you confirm that the post office being used to collect voted ballots that delegate election is the one stated in the Local Union Election Plan.

Thank you for your cooperation.

When our investigator interviewed Falik on April 22, 2016, she denied receiving the Election Supervisor's letter. Our investigator read the letter over the telephone to Falik and then emailed the letter to her the same day at her home email address, where she was working. As of the date this decision issues, no written response had been received from Falik or GES to Election Supervisor Mark's questions posed in the letter.

However, in response to our investigator's questions during the interview on April 22, 2016, Falik denied orally that GES had put the Fort Dearborn post office address in the Local Union 705 election plan, even though GES's Young admitted that he prepared the plan for Local Union 705. Falik stated that Young prepared the election plan working from a template of the 2011 local union election plan provided by OES, which she said must have contained the address for the Fort Dearborn post office. She claimed that when GES was preparing local union election plans for the many local unions for which it was conducting the 2016 delegate elections, there were "terrible problems" with OES's website.<sup>2</sup>

Falik was unable to explain to our investigator why Young did not correct the addresses of the post office and the printer that were to be used in the current election and instead simply carried forward the addresses that were used in the 2011 election cycle.<sup>3</sup>

The post-election protest's argument that the West Harrison Street post office used for returned ballots being different than the post office listed in the election plan was that ballots were delayed in arriving at West Harrison Street because they first were directed to the Fort Dearborn post office listed in the plan or to GES's offices in New York and then forwarded to West Harrison Street. Investigation

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<sup>2</sup> The web-based Local Union Election Plan form contains 18 questions for the local union to fill in to set the procedures for the delegates and alternate delegates election. All of the questions were answered in the Local Union 705 plan.

<sup>3</sup> GES requested changes to other Local Union Election Plans, and OES would review and approve changes if appropriate. *See, e.g.*, OES Approval of GES Request to Change Printer Local Unions 237, 295, 202, 210, 812, 988, 391, 769, 177, 326, 822, 95, 808, 917, 707, 813,553, 807, 97, 445, 992, 282, 72, 810, 299, 456, 831, 701, 804, and GCC Local N2 (Letter Dated January 18, 2016). That bulk approval did not affect Local Union 705 as that plan provided that the local would "print/mail ballots at Grace Printing in Chicago." *Id.*

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showed this argument had no factual basis. Thus, the address listed on all business reply envelopes in which voted ballots were returned for counting was the West Harrison Street post office, the one to which Young and the observers went on the morning of the count to pick up the voted ballots. Accordingly, the envelopes would have been routed to that post office without being first directed to any other post office for forwarding to West Harrison Street. Second, a check of the post office box at West Harrison Street on April 2, two weeks after the date of the count, showed that 78 ballots were returned after the March 19 pickup. Were the protestor's theory correct that voter participation as of March 19 was understated because returned ballots were delayed in their delivery to the West Harrison Street post office, the number found at West Harrison Street fourteen days after the count would have been much greater than what was actually noted after the election.

#### *Ballots returned as undeliverable*

The protestor also asserted that the ballots returned as undeliverable (RAU) as displayed at the tally looked unusual to him. Our representatives were present at the tally, saw the RAUs on display, and found no irregularities in them. The ballot packages were as they were originally mailed, with the addition of "return to sender" stamps and yellow stickers supplied by the postal service.

#### *Ballots billed vs. ballots delivered*

Finally, the protestor asserted that the number of ballots delivered by the post office varied substantially from the number for which the business reply mail clerk billed the local union. From this assertion, the protestor argued that ballots mailed in were not included in the tally. Investigation showed that the number of "pieces of mail" for which the local union was billed by the post office on March 19 was 3,692 envelopes. Upon return to the tally site with the mail haul, the election workers counted the number of pieces of mail and determined that the total came to 3,697 pieces, a difference of five pieces that were delivered but not billed for. Of the 3,697 pieces, 175 were voted ballots returned from the local union's officers election that GES conducted in Fall 2015, which had used the same post office box later used for the delegates election. These were treated as void ballots at the delegate election count, leaving 3,522 returned ballots that were subjected to the eligibility verification process. After exclusion of 160 challenged ballots and an additional 29 ballots that were declared void, 3,333 ballots were counted. We find no evidence of irregularity on these facts. Specifically, the number of ballot envelopes for which the post office billed the local union is substantially the same as the number delivered, substantiating the conclusion that the ballots were not delayed or misdirected.

#### *Conclusion*

On the facts presented here, we find that GES prepared the election plan. We find that GES used the wrong address for the printer even though the GES representative who prepared the plan knew the correct address of the printer. We further find that GES used the wrong address for the post office to be used for returned ballots even though the GES representative who prepared the plan knew the correct address. We find that that GES was careless in completing the election plan, and that it was similarly careless after the plan was approved because it failed to request approval for simple corrections. We find that GES's Falik failed to demonstrate the candor concerning GES's errors that subordinate employees Young and Jenkins displayed, with Falik contradicting their first-hand knowledge of the errors they committed and attempting to shift responsibility away from GES altogether.



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In addition, we find that GES sent ballots from the wrong local union to a number of members who requested duplicate ballots in Local Union 705's delegates election. GES compounded this error by failing to take the prompt action that was necessary to remedy the matter, by contacting all members who had been sent duplicate ballots on the date identified to ask which ballot they had received and then sending the proper ballot to those who received the incorrect ballot. Instead, GES displayed a lack of diligence by checking with a "random" number less than the total involved.

We find, however, that the outcome of the election was not affected by these errors. The objectively verifiable evidence concerning the impact of GES's errors demonstrates that they had no impact on the wide margin that separated successful from unsuccessful candidates in this election.

For this reason, we DENY these protests.

All delegate elections in this election cycle have been completed. Accordingly, GES will no longer serve as election contractor for any delegate election under the current *Rules*. Although we have denied these protests, we are troubled by GES's carelessness and lack of candor in the protest investigation, as well as its failure to accept responsibility for the consequences of its actions and inactions. Although the conduct had no effect on the outcome of this election, the misinformation in the plan created confusion among some members and required substantial investigation to resolve. In a close vote (and this one was not), a lethargic ballot remailing process, or a process that supplies members with the wrong ballot and then fails to fully correct that error is something that "may affect" the outcome of the election – a finding with serious consequences. Accordingly, this ruling should be taken as notice to GES and to local unions that OES will scrutinize carefully any proposed election plan for a delegates and alternate delegates election in the 2020-2021 election cycle that seeks to utilize the services of GES, any successor entity, or any of the GES employees identified in this decision, evaluating whether we are persuaded that the election services can be provided competently and in accordance with the *Rules*.

Any interested party not satisfied with this determination may request a hearing before the Election Appeals Master within three (3) 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, 34<sup>th</sup> 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 17<sup>th</sup> 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

***Bennett***, 2016 ESD 241  
June 13, 2016

Election Supervisor

cc: Kathleen A. Roberts  
*2016 ESD 241*

**Bennett**, 2016 ESD 241

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