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SENT VIA U.S. MAIL AND ELECTRONIC MAIL

Richard W. Mark, Esq.
Election Supervisor
Office of the IBT Election Supervisor
1050 17th Street NW, Suite 375
Washington, DC 20036

electionsupervisor@ibtvote.org

RE: Post-Election Protest Regarding the 2016 Election of IBT Officers

Dear Mr. Mark:

This is a post-election protest filed on behalf of the Fred Zuckerman Teamsters United slate concerning the egregious *Rules* violations, committed largely by the Hoffa-Hall 2016 slate, the International Brotherhood of Teamsters and numerous Teamster employers, that tainted and undermined the election of IBT officers that was completed on November 18, 2016. As you know, the election was decided by a very thin margin: while 198,778 ballots were cast for General President, the margin between candidates James P. Hoffa and Fred Zuckerman was only 6,024 votes. This is the smallest margin between principal officer candidates in any IBT election conducted since the Consent Decree was implemented in 1989—including the 1996 IBT election which had to be rerun in 1998. The smallest margin between candidates on the two competing slates in the present election was 4,157 votes, a difference of only 2%.

The *Rules* violations, which were all the subject of timely filed pre-election protests, include the widespread discriminatory denial of parking lot access to Teamsters United supporters; long delays by Teamster local unions in providing Teamsters United with worksite lists and members' email addresses; employers firing six Teamsters United supporters for their election activity; the use of union and employer resources by the Hoffa-Hall slate; and threats, intimidation and even the assault of Teamsters United campaigners by Hoffa slate candidates and supporters.

Perhaps the most dramatic of these *Rules* violations is the recent bombshell revelation that the Hoffa slate and the IBT deliberately delayed corruption investigations of Hoffa slate members Ken Hall and Rome Aloise, and refused to produce subpoenaed documents that would have been damaging to the Hoffa campaign's re-election hopes, until after the IBT election. The Hoffa slate and the IBT have thereby denied Teamster members the right to "fair, honest, open, and informed elections." *See Rules*, Art. I.

Given the slim vote margin and the pervasive *Rules* violations, it is clear that these violations "may have affected the outcome of the election. *See Rules* Art. XIII, Sec. 3(b). The *Rules* therefore require that the Election Supervisor refuse to certify the election results for the offices of General President, Secretary-Treasurer, Vice Presidents at Large, International Trustees and Eastern Region Vice Presidents; revoke the previously granted certification of the Western Region Vice Presidents; and take all required and appropriate remedial action.¹

FACTS

This protest incorporates by reference all decided and undecided pre-election protests filed by the Teamsters United slate and its slate members, delegate candidates and supporters. Protests that describe *Rules* violations which particularly affected the outcome of the election are identified and discussed herein.

Rules Violations Which are the Subject of Undecided Pre-Election Protests

Below is a list of twenty-two undecided pre-election protests concerning *Rules* violations which, in the aggregate, particularly affected the outcome of the election.

Protest Number	Protestor	Date Filed	Subject
P-093	Fred Zuckerman	1/12/16	Local 396 union steward and Hoffa delegate Maurice Thomas conducted surveillance of Teamsters United leafletters at Republic Services in Long Beach, CA and requested that the employer eject campaigners from the employee parking lot.
P-108	Jose Lizarraga	1/15/16	Local 396 business agent Hector Delgado threatened Teamsters United supporters at Republic Services in Long Beach, CA. Republic Services later terminated two Teamsters United supporters in retaliation for their election activities.
P-168	Frank Halstead	2/16/16	UPS in Gardena, CA terminated three Teamsters United supporters in retaliation for their election activities.
P-189	Frank Halstead	2/23/16	First Student in San Fernando, CA terminated a Teamsters United supporter in retaliation for her

¹ This protest does not concern the election results for the offices of Central Region Vice Presidents and Southern Region Vice Presidents. We request that you certify the results of the election for those positions as soon as practicable.

			election campaign activities.
P-228	Teamsters United	3/18/16	CR&R Waste in San Juan Capistrano, California denied parking lot access to Teamsters United supporters.
P-236	Fred Zuckerman	3/21/16	IBT obtained tens of thousands of dollars worth of gifts from employer Paris/Bally Casino for discriminatory distribution to Hoffa/Hall supporters at the IBT Convention.
P-301	Frank Villa	6/13/16	Local 986 business agent Kevin Harren disrupted and conducted surveillance of a Teamsters United meeting, requiring that police be called to have him removed.
P-316	James Motty	7/5/16	Costco in Norwalk, California denied parking lot access to Teamsters United supporters.
P-330	Fred Zuckerman	7/22/16	Local 396 steward and Hoffa delegate Alex Moran assaulted Teamsters United candidate Richard Galvan in the employee parking lot of UPS in Cerritos, California while TU candidates and supporters were leafleting.
P-339	Fred Zuckerman and Bill Lobger	7/29/16	Local 401 Business Agent Scott Kucharski prohibited union steward Bill Lobger from campaigning for Teamsters United.
P-368	Fred Zuckerman	9/23/16	Local 396 Hoffa supporter and IBT Sergeant-at-Arms Dennis Corrigan assaulted Teamsters United candidate Richard Galvan in the employee parking lot of UPS in Los Angeles, California while TU candidates and supporters were leafleting.
P-373	Teamsters United	10/6/16	Hoffa slate candidate and IBT Vice-President Ken Wood assaulted Teamsters United campaigner Dustin Ponder in employee parking lot of UPS in Jacksonville, Florida.
P-378	Jerry Yarbrough	10/7/16	Warren Unilube in West Memphis, Arkansas denied parking lot access to Teamsters United supporters.
P-385	Fred Zuckerman	10/11/16	Hoffa-Hall slate candidate and IBT Vice-President John Murphy campaigned inside employer facilities of Excel Industries in Toledo, OH, with access obtained through the assistance of IBT Local 20.
P-388	Teamsters United	10/11/16	The Chicago chapter of the Teamsters National Black Caucus posted Hoffa slate literature on its official Facebook page.
P-394	Teamsters United	10/19/16	IBT 305 officers campaigned for the Hoffa slate inside the facilities of five Teamster employers and used an employer's internal mailboxes to distribute campaign literature to Teamster members.
P-400	Merrilee Zerrougui and	10/21/16	Internal union charges were filed against members for allegedly providing evidence to the Election

	Ron Ruelas		Supervisor regarding the use of union resources to support the Hoffa slate.
P-404	Connell Crooms	10/26/16	Local 512 union stewards at First Student in Jacksonville, FL threatened Teamsters United supporters and requested that the employer have TU supporters removed from the employee parking lot by police.
P-409	Dave Cintron	11/4/16	A UPS supervisor interfered with Teamsters United campaigners and intimidated members outside a large UPS center in Manhattan, NY.
P-410	Dave Lobger	11/4/16	The Hoffa slate utilized IBT resources to delay the Independent Disciplinary Officer's investigations of Hoffa slate candidates until after members had voted in the IBT election.
P-411	Frank Halstead	11/4/16	The Hoffa slate and the IBT denied members the right to an informed vote, used union resources for campaign purposes and accepted employer support by delaying the IDO's investigations of Hoffa slate candidates until after members had voted in the IBT election.
P-412	Tim Sylvester	11/4/16	The Hoffa slate utilized IBT resources to delay the IDO's investigations of Hoffa slate candidates until after members had voted in the IBT election.

Rules Violations Which are the Subject of Decided Pre-Election Protests

Below is a list of fifteen granted or resolved pre-election protests concerning *Rules* violations which, in the aggregate, particularly affected the outcome of the election.

Protest Number	Decision	Date Filed	Subject
P-003	Fred Zuckerman, 2015 ESD 8 (July 16, 2015)	6/1/15	Local 396 Sergeant at Arms Robert Stansbury took photos of Teamsters United supporters, their vehicles and vehicle license plates, and told members "we will remember faces and report back."
P-019	Teamsters United, 2015 ESD 23 (August 18, 2015)	7/22/15	Local 25 union stewards coerced and threatened Teamsters United supporters and conducted surveillance of members in the employee parking lot of UPS in Watertown, ME.
P-021	Richard Galvan, 2015 ESD 19 (August 11, 2015)	7/27/15	UPS in Gardena, CA denied parking lot access to Teamsters United supporters.
P-025	John Kelder, 2016 ESD 65 (January 8, 2016)	7/31/15	YRC in Maybrook, NY issued a Teamsters United supporter a disciplinary warning for wearing a campaign t-shirt.

P-029	Teamsters United, 2015 ESD 25 (August 28, 2015) and Teamsters United, 2015 ESD 27 (August 28, 2015)	8/6/15	Republic Services in Long Beach, CA denied parking lot access to Teamsters United supporters. Local 396 union steward Mauricio Thomas conducted surveillance of Teamsters United supporters and campaigned for Hoffa on employer-paid time.
P-048	Fred Zuckerman, 2015 ESD 36 (October 13, 2015)	9/13/15	Local 651's principal officer prohibited candidate Fred Zuckerman from campaigning in the Local 651 parking lot and called the police to have Zuckerman removed.
P-057	Fred Zuckerman, 2015 ESD 38 (October 13, 2015)	9/28/15	Cassens Transport banned campaign activities in all employee parking lots.
P-058	Teamsters United, 2015 ESD 39 (October 15, 2015)	10/5/15	Jack Cooper Transport in Roanoke, Indiana banned campaign activities on non-work time and in non-work areas.
P-068	Teamsters United, 2015 ESD 53 (November 24, 2015) and Teamsters United, 2015 ESD 61 (December 19, 2015)	11/3/15	68 Teamster local unions representing in total more than 250,000 Teamsters refused to provide Teamsters United with worksite lists despite repeated requests, delaying their production for weeks.
P-142	Frank Halstead, 2016 ESD 166 (April 8, 2016), and 2016 EAM 16 (April 21, 2016)	2/14/16	Gate Gourmet at Los Angeles International Airport prohibited Teamsters United supporters from campaigning in the employee parking lot after Local 572 Business Agent Jaime Villanueva told the employer that TU campaigners should be barred.
P-175	Frank Halstead, 2016 ESD 166 (April 8, 2016), and 2016 EAM 16 (April 21, 2016)	2/17/16	First Student in San Fernando, CA denied parking lot access to Teamsters United supporters and called the police on them after Local 572 Business Agent Lonnie Holmes told the employer that TU campaigners should be barred.
P-313	Teamsters United, 2016 ESD 279 (August 1, 2016)	6/30/16	At the IBT Convention, Hoffa delegates forced a Teamsters United delegate to leave the convention floor and threatened "to bash his head in" after being incited by Hoffa slate candidate Brian Buhle.
P-327	Teamsters United, 2016 ESD 282 (August 19, 2016), Teamsters United, 2016 ESD 283 (September 8,	7/20/16	25 large Teamster local unions representing in total more than 150,000 Teamsters refused to provide Teamsters United with members' email addresses despite repeated requests, delaying their production for weeks.

	2016), and 2016 EAM 30 (October 12, 2016)		
P-396	Fred Zuckerman, 2016 ESD 324 (November 2, 2016) and 2016 EAM 31 (November 21, 2016)	10/19/16	The principal officer of Local 120 in Minnesota, which represents 11,000 members, texted union staff instructing them to tell all union stewards to use union seniority lists to “make a massive push” for the Hoffa-Hall slate. At least three business agents texted their stewards encouraging GOTV efforts for the Hoffa slate.
P-397	Teamsters United, 2016 ESD 317 (October 27, 2016)	10/20/16	Student Transportation of America in Jacksonville, FL denied parking lot access to Teamsters United supporters and had them removed by the police.

ARGUMENT

The criterion for evaluating entitlement to relief in a post-election context is whether the violations “may have affected the outcome of the election. *See Rules* Art. XIII, Sec. 3(b). This standard is adopted from Title IV of the Labor Management Reporting and Disclosure Act, which provides that if the court determines that a violation “may have affected the outcome of an election, the court shall declare the election, if any, to be void and direct the conduct of a new election...” 29 U.S.C. § 482(c)(2). “If the Election Officer does find such an effect on the outcome, [he or] she cannot certify the election.” *See Jeraldine Cheatam, et al.*, Post-27-EOH (Aug. 21, 1997), at 87 (refusing to certify the results of the 1996 IBT officers’ election). The Election Supervisor will refuse to certify the election results if there is “a reasonable probability that the violation may have affected the outcome.” *Id.* at 90; *see also Frank Halstead*, 2016 EAM 16 (Re: 2016 ESD 166) (April 21, 2016) (An election with a narrow margin of victory must be set aside if there is “a reasonable probability that the election outcome may have been affected by the violation.”)

The establishment of a “definitive or causal nexus” is not required in cases such as the present one in which there are serious *Rules* violations and the election was decided by a narrow margin. *See Kimberly Schultz*, 2016 EAM 17, at 8 (April 25, 2016) (KR) (ordering the rerun of the IBT Local 2011 delegates election), *citing Ford*, 95 EAM 46 (December 20, 1995) and *Scognamiglio*, 01 EAM 66 (May 16, 2001); *see also Keith Noll*, 2001 EAD 294 (March 31, 2001), *aff’d* 01 EAM 56 at 4 (KC) (April 6, 2001) (“[W]here the benefit conferred by a violation is significant, and the voter outcome is close, the election officer need not find a definitive causal link between the two.”)

In general, principles of *res judicata* apply to pre-election protests for which a pre-election decision issued. However, if such decisions are cited as the basis for a post-election protest, the Election Supervisor will review the decisions to determine whether the presumed-remedied violations “were in any way sufficient to have affected the outcome of the election.” *See Jeraldine Cheatam*, at 60.

The Rules Violations Are Significant

1. *The Use of IBT Resources to Delay the Disciplinary Investigation of Hoffa Slate Candidates and the Release of Compromising Documents Until After the IBT Election*

The disciplinary charges recently filed against Ken Hall by the Independent Investigations Officer (“IIO”), as well as U.S. Attorney Preet Bharara’s subsequent motion to enforce the Final Order in the IBT Consent Decree litigation, accuse Hall of refusing to produce documents that were subpoenaed in the course of the IIO’s investigation of high-level corruption within the Hoffa administration. *See United States v. IBT*, 88 Civ. 4486, Motion to Enforce the Final Order of Feb. 17, 2015 (Nov. 3, 2016). Hall himself is a target of these investigations. *Id.* The IBT and the Hoffa slate intentionally concealed this information and delayed its release until after the IBT election, thereby depriving members of the right to “fair, honest, open, and informed elections.” *See Rules*, Art. I and Art. XII.

The IBT provided Hall and possibly others with the services of high-priced attorneys to prevent or delay compliance with the subpoenas issued by the IRB and IIO until after the IBT Officers’ Election.² These contributions of legal services were made with the purpose and foreseeable effect of influencing the election for the benefit of the Hoffa slate by delaying the release of any damaging information until after Teamster members had voted. These contributions therefore violate the *Rules*. *See* Art. XI, Sec. 1(b)(3) and Art. XII.

The legal services provided by Kirkland & Ellis to delay compliance with the IRB and IIO until after the IBT election also constitute impermissible employer contributions to the Hoffa slate, having the “purpose, object or foreseeable effect” of influencing the election in violation of the *Rules*. *See Rules*, Art. XI, Sec. 1(b)(2) and Art. XII.

Finally, the Hoffa slate violated its obligation to report the union contributions and employer support described above on its CCERs. *See Rules*, Art. XI, Sec. 2(a)(1) and Sec. 2(a)(2).

These *Rules* violations were the subject of three pre-election protests filed by Teamsters United candidates and supporters. *See* P-410, P-411, and P-412. Through this cynical abuse of power, the IBT and the Hoffa slate have used members’ own dues money to deprive 1.4 million Teamster members of their right to an informed vote.

2. *The Widespread Discriminatory Denial of Parking Lot Access to Teamsters United*

The right to parking lot access is one of the key provisions of the Final Agreement and Order as well as the *Rules*. *See United States v. IBT*, 88 Civ. 4486 Final Order, at para. 23 (SDNY Feb. 17, 2015); *Rules*, Art. VII, Sec. 12(e). The refusal of an employer to grant parking lot access “endangers the free flow of information between candidates for IBT office and the rank-and-file electorate” and, thereby, “threatens the very purposes that the Government and the

² These legal services were provided by Viet Dinh, and possibly former Solicitor General of the United States Paul Clement. Both are formerly of Bancroft, PLLC, and are now partners at Kirkland and Ellis.

IBT intended the Consent Decree to serve.” *United States v. IBT*, 945 F. Supp. 609, 623 (S.D.N.Y. 1996). During the 2015-2016 election period, there have been numerous decided and still undecided protests concerning Teamster employers denying Teamsters United parking lot access to communicate with members. *See e.g.* P-021, P-057, P-058, P-093 P-142, P-175, P-228, P-316, P-378 and P-397. Teamsters United supporters were discriminatorily denied access by employers including UPS, Republic Services, CR&R Waste, Costco, Warren Unilube, Gate Gourmet, Cassens Transport, Jack Cooper Transport, First Student, and Student Transportation of America. This repeated denial of parking lot access by Teamster employers seriously hindered Teamsters United’s ability to communicate with Teamster members.

By contrast, the Hoffa slate did not have to file any pre-election protests concerning the denial of parking lot access during the 2015-2016 election period. The fact that not a single Teamster employer denied the Hoffa slate parking lot access is shocking given the repeated denial of parking lot access to Teamsters United. In fact, the Hoffa campaign was often complicit in this denial of parking lot access. *See* P-029, P-093, P-142, P-175 and P-404.

Clearly, this was not a situation in which both sides suffered from similar *Rules* violations and some sort of rough justice was achieved. Instead, Teamsters United was repeatedly denied parking lot access while the Hoffa slate was *never* denied parking lot access, and instead was sometimes even allowed to campaign on employer premises. *See* P-385 and P394. Despite the intervention of the Election Supervisor, Teamster United spent many days and weeks unable to communicate with Teamster members at large worksites because its supporters were barred from the employee parking lot by the employer.

3. *The Widespread Discriminatory Refusal by Local Unions to Provide Worksite Lists to Teamsters United*

Worksite lists are essential in order for candidates to be able to conduct widespread parking-lot outreach to Teamster members. Article VII, Section 1(b) of the *Rules* gives accredited candidates for International office “the right to a current list of all sites, with corresponding addresses, where any and all Union members work.” The *Rules* provide that candidate requests for worksite lists “shall be honored within five (5) days.” *Id.* Yet despite these clear provisions, sixty-eight Teamster locals representing more than 250,000 Teamster members ignored multiple requests by Teamsters United for worksite lists, and delayed production of those lists for as much as two months, when they were eventually compelled to produce the lists by the Election Supervisor. *See Teamsters United*, 2015 ESD 53 (corrected) (November 24, 2015).

Notably, the Hoffa slate never had to file a single election protest to obtain a worksite list from a local union. Again, there was no “rough justice.” Local officers who supported Hoffa had access to worksite lists and were able to campaign at these worksites during this two month period while denying that right to Teamsters United.

4. *The Widespread Discriminatory Refusal by Local Unions to Provide Their Members' E-Mail Addresses to Teamsters United*

The *Rules* provide that local unions “shall honor reasonable requests by candidates for distribution of literature through electronic mail.” *See Rules*, Art. VII, Sec 7(a)(4). However, when Teamsters United requested that fifty large local unions provide Teamsters United with their members’ e-mail addresses, many local unions again refused to comply. Twenty-five local unions, representing in total more than 150,000 members, refused to provide e-mail lists without the intervention of the Election Supervisor. Some dragged the process out for more than six weeks.

For many weeks, Teamsters United was unfairly denied the ability to communicate with local union members as provided for in the *Rules*. Distribution of literature by email is by far the quickest and least expensive method of distribution of campaign literature available to the candidates. Campaign mailings via traditional methods are prohibitively expensive in such a large union. Email distribution also allows candidates to reach members which it has been unable to communicate with via workplace visits due to the immense number of physical locations at which Teamsters are employed.

Teamsters United was compelled to write the Office of the Election Supervisor on August 12, 2016, urging that the Election Supervisor require recalcitrant locals to immediately provide these email list, stating “[t]hese delays are gravely impacting Teamsters United’s ability to communicate with Teamsters members and, in the aggregate, threaten the right of Teamster members to a fair and informed election.”

Again, the Hoffa slate did not have to file a protest against any local union in order to obtain email lists.

5. *Surveillance, Threats, Intimidation and Assaults of Teamsters United Supporters*

The Hoffa campaign and its supporters have repeatedly conducted illegal surveillance of Teamsters United supporters for simply exercising their right to engage in parking lot campaigning or hold organizing meetings. *See* P-003, P-019, P-029, P-093 and P-301. The Hoffa campaign and its supporters have repeatedly engaged in threats and intimidation of Teamsters United supporters. *See* P-108, P-313 and P-404. They have on their own, or in collaboration with employers, had the police called on Teamsters United supporters who were campaigning in employee parking lots or union hall parking lots. *See* P-048, P-175 and P-404. They have even engaged in physical violence against Teamsters United supporters. *See* P-313, P-330, P-368 and P-373.

This retaliatory violence was not committed only by underlings. International Vice President and Hoffa slate member Ken Woods assaulted a rank-and-file Teamster in an employee parking lot in Jacksonville, Florida. *See* P-373.

Teamsters United candidate Richard Galvan was assaulted twice while campaigning in Southern California. *See* P-330 and P-368. In fact, a disproportionate number of incidents of

surveillance and intimidation of Teamsters United supporters occurred in Southern California. *See* P-003, P-029, P-093, P-108, and P-301. These acts of surveillance, intimidation and violence had a chilling effect on the more than 100,000 Teamster members in Southern California who directly witnessed them or heard about them through the Teamster grapevine. The message to these Teamster members was clear—you support Teamsters United at your own risk.

6. *Terminations of Teamsters United Supporters in Southern California for Their Election Activities*

Six rank-and file Teamster members in Southern California who were visible and active supporters of Teamsters United were fired by their employers in retaliation for their protected election activities. Local 396 members Hector Bacerra and Gabriel Luquin were fired by Republic Services in Long Beach, CA in January 2016. Local 572 members Nick James, Desmond Augustine and Richard Arreola were fired by UPS in Gardena, CA in February 2016. Local 572 member Elva Roman was fired by First Student in San Fernando, CA, also in February 2016. Except for Mr. Arreola and Mr. Luquin, these Teamster members all remain terminated as of today. The terminations were in blatant retaliation for their election activities. At the joint employer-union panel hearings regarding the terminations of James and Augustine, the employer went so far as to introduce as evidence a Teamsters United flyer that James and Augustine circulated. The panel, composed of pro-Hoffa union and company officials, upheld the terminations.

The effect of these terminations extends far beyond the individual employees who were fired. As with the surveillance, intimidation and physical assaults described above, the terminations of Teamsters United supporters had a chilling effect on Teamsters throughout Southern California. The message these terminations sent to members was that if they supported Teamsters United they would be risking their livelihood.

The courts have repeatedly recognized that nothing has a greater chilling effect on employee protected activity, such as the protected activity of engaging in internal union campaigns, than the termination of activists. “[N]o other worker in his right mind would participate in a union campaign...after having observed that other workers who had previously attempted to exercise rights protected by the Act have been discharged and must wait for three years to have their rights vindicated.” *Silverman v. Wittall & Shon, Inc.*, 1986 WL 15735, 125 LRRM 2152 (S.D.N.Y. 1986); *see also Eddyleon Chocolate Co.*, 301 NLRB 887, 891 (1991) (unlawful discharges affect remaining employees who reasonably fear that they too will lose employment if union activity persists). The termination of these six Teamsters in early 2016, whose protests have yet to be decided by the Office of the Election Supervisor, cast a pall over the IBT election throughout Southern California.

7. *The Hoffa Slate’s Use of Union and Employer Resources for Campaign Purposes*

The Hoffa slate repeatedly used employer resources for campaign purposes. For example, they campaigned inside employer facilities. *See* P-385 and P-394. In addition, as described above, the Hoffa campaign blatantly used union resources for campaign purposes. *See* P-388, P-

396, P-410, P-411 and P-412. The IBT even obtained tens of thousands of dollars worth of gifts from Paris/Bally Casino which it could then dole out to Hoffa-Hall supporters at the IBT Convention to curry favor from delegates. *See* P-236.

The Election Was Decided by a Very Narrow Margin

The present IBT election was decided by the smallest margin ever of any election conducted since rank-and-file direct election of IBT officers was adopted pursuant to the 1989 consent decree. Just how unusually close the election was can be seen in the chart below, which demonstrates the margins between the winning candidate for General President and the second-highest vote getter for that position in every IBT election since 1989.³

	Highest Vote Getter	Number of Votes	Second-Highest Vote Getter	Number of Votes	Margin
1991	Ron Carey	187,912	RV Durham	128,399	59,513
1996	Ron Carey	237,028	James P. Hoffa	221,110	15,918
1998 (rerun)	James P. Hoffa	195,612	Tom Leedham	141,092	54,520
2001	James P. Hoffa	200,115	Tom Leedham	105,655	94,460
2006	James P. Hoffa	174,379	Tom Leedham	92,267	82,112
2011	James P. Hoffa	136,437	Fred Gegare	53,881	82,556
2016	James P. Hoffa	102,401	Fred Zuckerman	96,377	6,024

The 6,024 vote margin between Mr. Zuckerman and Mr. Hoffa represents a difference of only 3%. As seen below, the vote margins for other positions were similarly close.

	Lowest Vote-Getter on Hoffa Slate	Number of Votes	Highest Vote-Getter on Teamsters United Slate	Number of Votes	Margin
General President	James P. Hoffa	102,401	Fred Zuckerman	96,377	6,024
Secretary-Treasurer	Ken Hall	102,701	Tim Sylvester	94,937	7,764
Vice President at Large	Steve Vairma	99,688	Sandy Pope	95,531	4,157
International Trustee	Jim Kabell	100,237	Todd Anderson	94,774	5,463
Eastern Region Vice President	Dan Kane, Sr.	33,165	Bob Randall	26,490	6,675

³ In the 1991, 1998 and 2011 IBT elections, three candidates ran for the position of General President.

The Violations May Have Affected the Results of the Election

In considering whether violations may have affected the results of an election, the Election Supervisor has considered whether the violation may have persuaded members to change their vote from one candidate to another. *See James Scognamiglio*, 2001 EAD 334 (May 1, 2001), *aff'd* 01 EAS 66 (KC) (May 16, 2001). In *Scognamiglio*, the margin between candidates was 314 votes. The Election Supervisor and Election Appeals Master concluded that the violations may have affected “a swing of 157 votes,” thereby warranting a rerun election. *Id.*

Given the 6,024 vote margin, a swing of only 3,013 votes from Mr. Hoffa to Mr. Zuckerman in the present election would have changed the result in the race for IBT General President. A swing of only 2,079 votes would have changed the result of the election for Vice Presidents at Large. Similarly small vote swings would have affected the results of all races in the IBT election.

The relevant questions, then, is whether the *Rules* violations described herein may have affected the votes of approximately three thousand Hoffa voters or encouraged a few thousand non-voters to cast their ballot for Teamsters United. The answer is clearly yes.

Would a few thousand more Teamsters have voted for Teamsters United if they knew that Secretary-Treasurer Ken Hall was refusing to produce subpoenaed documents in a corruption investigation targeting top Hoffa administration officials? It is difficult to conclude otherwise. Would a few thousand more members have voted for Teamsters United if they had seen the contents of those illegally withheld documents showing evidence of high-level corruption at the IBT? In fact, it is probable that tens of thousands more members would have voted for Teamsters United if this corruption had not been swept under the rug until after the election in a sickening abuse of power.

The widespread and repeated denial of parking lot access to Teamsters United by large Teamster employers also affected the number of votes that Teamsters United garnered. Even when parking lot access was eventually gained by the intervention of the Office of the Election Supervisor, Teamsters United still lost crucial time in which it could not communicate with members. Sometimes Teamsters United was excluded for only a day; but usually the exclusion lasted for a number of days. And on occasion the denial of parking lot access extended for weeks. In many cases, activists who had taken vacation time to visit other Teamster worksites were not able to return later to campaign at the facilities where they had been denied access. In sum, this affected Teamsters United’s ability to communicate with thousands of Teamsters. And as noted earlier, the Hoffa slate was never excluded from Teamster employers’ parking lots.

When sixty-eight Teamster locals representing more than 250,000 Teamster members delayed production of their worksite lists to Teamsters United for as much as two months, Teamsters United’s ability to communicate with members and turn out votes was again severely harmed. It is reasonable to assume that this affected thousands of votes. Similarly, when twenty-five large local unions, representing in total more than 150,000 members, refused to provide e-

mail lists to Teamsters United for as much as six weeks, this likely cost Teamsters United thousands of votes.

To give only one example, Teamsters United requested an e-mail list from Teamsters Local 2010, which represents 7,000 University of California employees, on July 6, 2016. There was clearly no other efficient way to communicate with these widely dispersed employees apart from email. Yet Local 2011 refused to provide Teamsters United its email list until August 23, 2016. Therefore, for a month and a half, Teamsters United was denied the ability to communicate with these 7,000 Teamsters. This number of members, within one local union, surpasses the entire margin of victory between candidates in the IBT officers' election.

The Hoffa slate's campaign of surveillance, threats, intimidation and assaults of Teamsters United supporters also cost Teamsters United many votes. Notably, this reign of terror centered in Southern California, where more than 100,000 Teamsters reside. Six Teamsters United activists were also terminated for their election activities in Southern California. Teamsters United could reasonably be expected to have garnered thousands of more votes from the 100,000+ Teamster members in Southern California were it not for this atmosphere of intimidation.

The Hoffa campaign's use of union resources also garnered it hundreds if not thousands of votes that it would not have had otherwise. In Local 120, union resources—including the local union's seniority lists—were used to conduct a massive GOTV outreach to stewards and members throughout this 11,000 member local union.

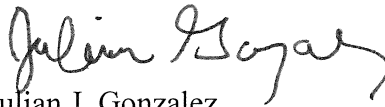
In sum, the violations described herein potentially impacted the votes of hundreds of thousands of Teamster members. Again, only a swing of about 3,000 votes would have changed the results in all contested races for the IBT Executive Board. There is therefore clearly more than a "reasonable probability" that the *Rules* violations described herein affected the results.

CONCLUSION

These serious and pervasive *Rules* violations committed by the Hoffa slate and its supporters, the IBT, and Teamster employers have tragically undermined the integrity of the 2016 IBT officers' election. The incumbent members of the Hoffa administration have abused their positions to deprive Teamster members of the right to a fair and informed vote by cynically stalling corruption investigations and withholding subpoenaed documents until after the conclusion of the IBT election. Teamster employers have colluded with the Hoffa slate to repeatedly deny Teamsters United access to employee parking lots while never denying access to the Hoffa slate. The Hoffa slate created a pervasive atmosphere of fear and intimidation among Teamsters in Southern California by utilizing surveillance, threats and physical violence against Teamsters United supporters. Teamster employers created a chilling effect on Teamster members' exercise of their rights by terminating Teamsters United activists. Teamster locals delayed weeks in providing Teamsters United with worksite lists and member email lists, thereby depriving Teamsters United of the ability to communicate with Teamster members. And the Hoffa slate repeatedly abused union and employer resources for campaign purposes.

So long as these violations “may have affected the outcome of the election,” the election results cannot be certified. *See Rules* Art. XIII, Sec. 3(b). When considered in the aggregate, the inevitable conclusion is that the violations affected the results of the IBT election, giving the incumbent Hoffa slate a razor-thin margin in voting for most positions. For these reasons, we respectfully submit that the *Rules* require that you refuse to certify the election results for the offices of General President, Secretary-Treasurer, Vice Presidents at Large, International Trustees and Eastern Region Vice Presidents, and revoke the certification of the results for Western Region Vice-Presidents.

Very truly yours,

A handwritten signature in black ink, appearing to read "Julian J. Gonzalez". The signature is fluid and cursive, with a long, sweeping tail on the final letter.

Julian J. Gonzalez