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

IN RE: HOFFA-HALL 2016,

Protestor.

Protest Decision 2016 ESD 338 Issued: December 7, 2016 OES Case No. P-406-102816-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 that Teamsters United received an impermissible employer contribution in the form of partisan stickers posted on employer property at a UPS facility in Landover, MD.

Election Supervisor representative Paul Dever investigated this protest.

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### Findings of Fact and Analysis

UPS operates a sprawling receiving, sorting, and distribution hub on a 16-acre parcel in Landover, MD. The building itself occupies some 5½ acres of that parcel. The protest alleged that "several Teamsters United pole stickers [were] attached to company property." The photos included with the protest depicted yellow "FRED" pole stickers with blue printing affixed to at least seven lampposts and one parking lot bollard. Investigation established that the lampposts and bollard were on employer property, as the protest alleged.

The stickers were alleged to be an employer contribution to the Teamsters United campaign.

The protest was filed Friday, October 28, 2016. At 9:30 p.m. that date, counsel for the protestor identified two witnesses, providing contact information for one. Our representative contacted the witness on Monday, October 31 for whom a phone number had been provided.<sup>1</sup> That witness reported that all stickers had been removed the previous Friday, the date the protest was filed.

On November 1, the day after our representative spoke with the witness, the protestor reported a new posting of a pole sticker on UPS property. A photo taken by the same witness at 1:22 p.m. that date showed a single pole sticker on a lamppost immediately adjacent to a small building that contained an overhead door. This lamppost was not among the photos submitted with the protest, and it is unclear to us whether the sticker depicted in the November 1 photo was affixed prior to October 28 and not discovered or put up after the stickers were removed on October 28. In either event, the second witness the protestor produced reported to our representative that she did not see any partisan stickers on UPS property after November 1, 2016.

We have held the posting of campaign material on employer property to be an improper endorsement of a candidate by an employer. *Hoffa-Hall 2016*, 2016 ESD 64 (January 8, 2016). However, the prompt removal of the improper endorsement has often been held sufficient remedy for the protest. *Id. See also, Halstead*, 2006 ESD 386 (October 26, 2006); *Wright*, 2006 ESD 361 (October 2,

<sup>&</sup>lt;sup>1</sup> That same day, a phone number was supplied for the second witness. That witness did not return our representative's phone messages until November 8.

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2006); *Leedham Slate*, 2006 ESD 301 (July 5, 2006); *Halstead*, 2005 ESD 31 (June 6, 2005); *Domeny*, 2001 EAD 499 (October 5, 2001); *Speak*, 2001 EAD 239 (March 14, 2001).

We deem this protest RESOLVED based on the prompt removal of the stickers. In doing so, we decline the protestor's invitation that we impose an additional remedy for the sticker it asserts was posted after the first series of stickers were removed, finding (based on the evidence from the second witness that the property was clear of pole stickers after November 1) that the additional sticker likewise was promptly removed.

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, 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 Election Supervisor

cc: Kathleen A. Roberts 2016 ESD 338

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