

**DECISION OF THE EXECUTIVE BOARD OF TEAMSTERS JOINT COUNCIL 10  
NEW ENGLAND IN THE MATTER OF THE ELECTION PROTESTS OF THE  
“MEMBERSHIP SLATE” CONCERNING THE ELECTION OF OFFICERS,  
TEAMSTERS LOCAL UNION NO. 251**

**INTRODUCTION**

On November 15, 2013, the Executive Board of Teamsters Joint Council 10 New England (hereinafter, “Executive Board” or “Board”) convened a duly-noticed hearing In the Matter of the Election Protests of the “Membership Slate” Concerning the Election of Officers, Teamsters Local Union No. 251 (“Local 251”). This hearing, which was stenographically recorded, was held in accordance with Article XXII, Section 5(b) and Article XIX of the International Brotherhood of Teamsters Constitution (hereinafter, “Constitution”). The Panel members hearing the matter were as follows:

David W. Laughton, Secretary-Treasurer  
David A. Lucas, Jr., Vice President  
Dennis E. Raymond, Trustee  
Alice-Riley King, Trustee  
Rocco J. Calo, Trustee  
Jeffrey Parkinson, Trustee, Local 633 (sitting by designation)

During the hearing, the following exhibits were introduced into the record:

Joint Council 10 Exhibits

JC10 Exhibit 1	Local 251 Election of Officers Tally of Ballots
JC10 Exhibit 2	November 2, 2013 Election Protest of the Membership Slate
JC10 Exhibit 3	November 4, 2013 JC10 Notice of Hearing
JC10 Exhibit 4	November 6, 2013 Letter from Attorney Michael S. Bearse to Attorney Marc B. Gursky re Information Request
JC10 Exhibit 5	Email Chain beginning with November 6, 2013 email from Attorney Gursky to Matt Taibi
JC10 Exhibit 6	November 7, 2013 Letter from Attorney Barbara Harvey to Attorney Gursky re Information Request

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|----------------|--------------------------------------------------------------------------------------------|
| JC10 Exhibit 7 | Email Chain beginning with November 7, 2013 email from Attorney Gursky to Attorney Harvey  |
| JC10 Exhibit 8 | November 7, 2013 Letter from Attorney Bearse to Attorney Gursky re Request for Information |
| JC10 Exhibit 9 | November 9, 2013 Letter from Attorney Harvey to JC10 Secretary-Treasurer David W. Laughton |

Local 251 Exhibits

- |                |                                                                             |
|----------------|-----------------------------------------------------------------------------|
| L251 Exhibit 1 | November 15, 2013 Letter Statement by Joseph Bairos to JC10 Executive Board |
| L251 Exhibit 2 | Notice of Nomination and Election of Officers Local Union 251               |
| L251 Exhibit 3 | Notice of Election Local Union No. 251                                      |
| L251 Exhibit 4 | Recap of Local 251 Dues and Initiations as of 9/30/2013                     |
| L251 Exhibit 5 | Recap of Local 251 Dues and Initiations as of 10/29/2013                    |

United Action Slate Exhibits

- |                  |                                                                                                                                                                                                                                                                                                |
|------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| United Exhibit 1 | Statement of Matthew Taibi                                                                                                                                                                                                                                                                     |
| United Exhibit 2 | December 13, 2011 Letter from Local 445 to Scott Andrejeski re Charges against Adrian Huff and Barry Russell; Letter dated December 22, 2011 from JC16 to Scott Andrejeski re Local 445 Election protest; and January 6, 2012 Letter from General President James P. Hoffa to Scott Andrejeski |
| United Exhibit 3 | Pre-election Protest of Eddie Carreiro and appeal of the decision of the Local 251 Executive Board concerning that protest                                                                                                                                                                     |

**PROTEST**

In its letter of protest, submitted by Michael S. Bearse, Esq., the Membership Slate<sup>1</sup> raised the following two grounds for setting aside the results of the election for all Officers and elected Business Agents:

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<sup>1</sup> The Membership Slate was comprised of the incumbent Officers and elected Business Agents of Local 251, including the following individuals: Joseph Bairos, Secretary-Treasurer; Kevin Reddy, President & Business Agent; Steven Capobianco, Vice President; Michael Nunes, Recording Secretary; Susan Folan, Trustee; Anthony Scivola,

- (1) Certain persons who were ineligible to vote in accordance with the relevant provisions of the constitution were provided with ballots, which ballots were counted in the vote tally. In particular, some members who were current in the payment of dues for the last 6 months but who, prior to that time, had incurred a dues delinquency or suspension not attributable to the employer's failure to comply with an authorized dues check off, were allowed to vote upon the recommendation/guidance of the International Union but contrary to relevant constitutional provisions; and
- (2) Other members, similarly situated to the voters described in (1), above, were not advised or informed that they could request ballots in the election.

### **BACKGROUND**

The election of Local 251 Officers and elected Business Agents was conducted by mail ballot from September 29, 2013 (nomination meeting) through October 30, 2013, when the ballots were counted. *See* L251 Exhibit 2. All positions were contested with the incumbent Officers and elected Business Agents identifying themselves as the Membership Slate and the challengers identifying themselves as the United Action Slate. The Election Supervisor was Michael Markowitz.

The ballots were mailed out on October 9. *See* L251 Exhibit 1. While approximately 5,200 ballots were sent out in the initial mailing (*see* Transcript at p. 45), Local 251 was paying per capita on 5,781 members as of September 30, 2013. *See* L251 Exhibit 4. On October 16, 2013, a member of the United Action Slate, Eddie Carreiro, filed a pre-election protest. United Exhibit 3. The letter of protest included the following specifications:

Members at Rhode Island Hospital are being denied their right to vote in the Local 251 election.

Many members employed at the Hospital report that they were not mailed ballots. When they called the Union Hall to request a replacement ballot, they are denied one. Instead, they are told they are behind on dues, are not eligible to vote and will not receive a ballot.

This is a clear violation of election procedures and an attempt to suppress the vote of Rhode Island Hospital employees who overwhelmingly support the United Action Slate.

Every Local 251 Teamster has the right to receive a ballot to vote in the election and either pay up their dues before the vote count or contest a finding of voter ineligibility by documenting that they had monthly earnings from which dues could have been deducted.

It is a firmly established principle that a member on dues check-off retains his or her good standing even if his or her dues were remitted late or not at all by the employer, provided he or she has signed a check-off authorization and had sufficient earnings from which dues could have been deducted for work or paid leave in the month. [IBT Constitution, Article X, Section 5(c)]

All Local 251 members who have not been mailed a ballot should immediately be mailed a ballot. Issues of voter eligibility should be handled at the vote count with United Action Slate observers present, not unilaterally by incumbents who have expressed their animus against Teamsters employed at the Hospital and who have a vested interest in suppressing the vote of same.<sup>2</sup>

On October 17, Local 251 Secretary-Treasurer Joseph Bairos met with a representative from the IBT Legal Department. According to Brother Bairos, during that meeting, the IBT representative, Gary Witlen, “strongly suggested that if anybody from Rhode Island Hospital called that were delinquent ... we allow them to request ballots....”<sup>3</sup> Also during that meeting, there was a discussion concerning the possibility of “substitute[ing] a modified voter eligibility rule whereby members who were on dues check-off for the six (6) months prior to the election be eligible to vote notwithstanding an earlier unpaid delinquency....” Transcript at p. 42. Use of the 6-month rule would eliminate the need for the Election Supervisor to investigate and determine, on a challenged voter-by-voter basis, whether, for the delinquent month(s), members on check-

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<sup>2</sup> The record includes a letter by Eddie Carreiro appealing the denial of the pre-election protest by the Local 251 Executive Board (United Exhibit 3, last page). However, the record does not include the decision of the Local 251 Executive Board concerning the pre-election protest.

<sup>3</sup> This attribution is credible since Director Witlen would understand that members with dues delinquencies who were on check-off should have received ballots as part of the initial mailing of ballots.

off had sufficient earning from which the employer(s) could have made and remitted the required dues.<sup>4</sup>

The adoption of the 6-month rule resulted in the enfranchisement of an additional 433 members who requested and cast ballots in the election.<sup>5</sup> The ballots were counted on October 30<sup>th</sup> under the supervision of Election Supervisor Michael Markowitz.<sup>6</sup> The ballots that were requested and cast under the 6-month rule initially were segregated. No challenges were made by either slate to any of these ballots. In fact, the heads of both slates expressly approved the commingling of these ballots with the other ballots to be counted. *See* Transcript at pp. 52-53, 55, 59.

All members of the United Action Slate prevailed in the election. The vote differentials were as follows:

Secretary-Treasurer/Executive Officer	112
President	210
Vice President	164
Recording Secretary	163
Trustees	98
Business Agents	144 <sup>7</sup>

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<sup>4</sup> The Election Supervisor for IBT Delegates' elections had previously developed and applied the 6-month rule.

<sup>5</sup> There was conflicting evidence concerning the number of ballots actually cast under the 6-month rule. In this regard, Matthew Taibi testified that 433 ballots were qualified and counted under the 6-month rule. *See* Transcript at p. 57. This number is also contained in the Post-Election Protest made by the Membership Slate. *See* L251 Exhibit 1. During the hearing, Secretary-Treasurer Bairos twice testified that 290 members requested and were sent ballots. *See* Transcript at pp. 42, 78. However, Brother Bairos also testified that 290 out of the 433 members who were enfranchised by the 6-month rule and cast ballots were employed at the Rhode Island Hospital. *See* Transcript at pp. 70-71. While it is not material to the Panel's decision whether the actual number of ballots cast under the 6-month rule was 433, the Panel credits Brother Taibi's testimony as that testimony was at least at one point seemingly confirmed by the testimony of Brother Bairos.

<sup>6</sup> According to the un-contradicted testimony of Matthew Taibi, there were 187 ballots declared ineligible based on the 6-month rule and another 27 ballots that were excluded for other reasons including ballots submitted by delinquent self-payers. *See* Transcript at p. 57. According to the tally, there were also 214 void ballots. *See* JC10 Exhibit 1. No evidence was presented concerning the seemingly high number of void ballots.

<sup>7</sup> In the cases of the totals for the positions of Trustee and the Business Agent, the differentials are between the lowest vote getter from the United Action Slate and the highest vote getter from the Membership Slate.

The vote tally was signed by representatives of both slates and, subsequently, a timely Post-Election Protest was filed by the Membership Slate with the Secretary-Treasurer of Joint Council 10.

## **DISCUSSION**

### **A. There is no evidence that members who were ineligible to vote in fact voted in the contested election.**

While the Membership Slate, in its Post-Election Protest, contended that “certain persons who were ineligible to vote in accordance with the relevant provisions of the constitution were provided with ballots, which ballots were counted in the vote tally,” the record contains no evidence that any ineligible members voted in the election.

As noted above, in the initial ballot mailing, members who were delinquent in their dues, including members who were on dues check-off, were not sent ballots. Secretary-Treasurer Bairos testified, without contradiction, that the failure to send ballots to members, who had dues delinquencies, including members who were on dues check-off, was consistent with Local 251’s past practices. This fact notwithstanding, it is clear that that practice was contrary to the IBT Constitution and the LMRDA. In this regard, under the IBT Constitution, a member who is on dues check-off does not lose good standing status if he has earnings from which his employer could have made dues deductions but did not; provided however, that the member, once notified by his Local Union, pays the delinquent dues within thirty (30) days. *See* Article X, Section 5(c).<sup>8</sup> Therefore, a member on dues check-off who has a dues delinquency should receive a ballot that can be challenged.

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<sup>8</sup> The Notice of Nomination and Election of Officers Local Union 251 (Local 251 Exhibit No. 2) correctly states that “a member on dues check-off will not lose good standing as a result of a delay or default in the employer’s transmittal of dues to the Local or because of an employer’s failure to make the proper deductions in any month in which the member has earnings from which deductions could have been made.”

In addition, as correctly stated in the Notice of Election, members who are otherwise delinquent were given until 4:30 p.m. on October 29 (the day before the election) to become current in their dues. However, in a mail ballot election, members with dues delinquencies must be provided a ballot or the member's right to enfranchise himself by becoming current by the day before the ballots are counted is illusory.<sup>9</sup>

In their protest and presentation, the Membership Slate conflates two very distinct matters, *i.e.* the "fact" that some members with dues delinquencies ultimately received and cast ballots<sup>10</sup> and the "issue" of whether any of those ballots were cast by members who were not eligible to vote on October 30. In effect, the Membership Slate is asking that the Panel conclude that, because ballots were sent, upon request, to members that had dues delinquencies, the members that subsequently cast those ballots were not eligible to vote.

However, the record contains no facts from which the Panel could arrive at that conclusion. In this regard, according to the testimony of Secretary-Treasurer Bairos, the Local, at the urging of the IBT, "substitute[d] a modified voter eligibility rule whereby members who were on dues check-off for the six (6) months prior to the election be eligible to vote notwithstanding an earlier unpaid delinquency...." Transcript at p. 42.<sup>11</sup> There does not appear to be any dispute that the ballots that were cast by members that had requested ballots based on

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<sup>9</sup> The Panel would note that there should not be a dispute that, if the election had been an in-person, walk-in election, a member who paid his delinquent dues on October 29 could have received a ballot, cast that ballot and had that ballot counted. The substitution of a mail ballot election for an in-person, walk-in election does not allow for a different result.

<sup>10</sup> As discussed in footnote 5, there is conflicting evidence concerning how many ballots were deemed presumptively valid by the application of the 6-month rule. However, the Panel does not need to resolve this factual issue as the resolution of this issue is not material to the Panel's decision.

<sup>11</sup> The meeting at the IBT occurred well prior to the counting of the ballots and the discussion appears to have concerned which members, of the approximately 600 that had not received a ballot in the initial mailing, would be sent a ballot upon request. In this regard, Secretary-Treasurer Bairos testified that "I went up to see Gary Witlen who strongly suggested that if anybody from Rhode Island Hospital called that were delinquent ... we allow them to request ballots...." Transcript at p. 50.

the application of the 6-month rule were able to be identified and segregated by the Election Supervisor Mike Markowitz in that Secretary-Treasurer Bairos (Transcript at pp. 52-53)<sup>12</sup>, Daniel Manocchio (Transcript at p. 55)<sup>13</sup> and Matthew Taibi (Transcript at p. 59)<sup>14</sup> each testified that Mr. Markowitz asked members of both slates whether anyone objected to having these ballots “commingled” with the other ballots that were to be counted.

In addition, there is no dispute that the ballots that the Membership Slate now contends may have been cast by ineligible members were not challenged by the Membership Slate as expressly required by the IBT Constitution. *See* Article XXII, Section 5(c) (“If votes are challenged, such challenges shall be made in writing at the time of the election with specific reasons given for such challenges”). Had the ballots been challenged by the Membership Slate, the challenges would have been resolved through the 2-part analysis required by Article X, Section 5(c), under which the Election Officer first would have determined whether the voter, for the month(s) in question, had had sufficient earnings from which the dues could have been deducted and, if so, whether the Local secondly had notified the member of the issue with his dues check-off.

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<sup>12</sup> Q (By Matthew Taibi) When those ballots were verified and were counted and Mike Markowitz pulled us aside privately, did you allow for him to commingle those ballots?

A (By S-T Bairos) Yes I did, at his strong advisement again. He had told me prior to us meeting that he was going to do that. ...

Q (By Matthew Taibi) When Mike Markowitz announced this, the entire room – before commingling the ballots, did yourself or anyone challenge this?

A (By S-T Bairos) No, no, no.

<sup>13</sup> Q (By Matthew Taibi) Dan, before the ballots were commingled, did you challenge? Did you object?

A (By D. Manocchio) No.

<sup>14</sup> “Brother Markowitz stated at the time that it was his intention to open and commingle all eligible and unchallenged ballots. There being no challenge, he did commingle the 433 ballots that were unchallenged as eligible.”

Since the votes were not challenged, the 2-part tests provided for in the Constitution were not undertaken; and, as such, there is no evidence of the number of the voters (if any) who would have failed one or both parts of the 2-part tests had those tests been administered. Simply stated, the fact that the agreed-upon application of the 6-month rule eliminated the need for the Election Supervisor to apply the 2-part eligibility test to the now contested ballots is not probative on the issue of whether any of those contested ballots, in fact, were cast by ineligible members.<sup>15</sup>

Moreover, as noted above, the Membership Slate, in its Protest, claimed that “some members who were current in the payment of dues for the last 6 months but who, prior to that time, had incurred a dues delinquency or suspension *not attributable to the employer’s failure to comply with an authorized dues check off*, were allowed to vote upon the recommendation/ guidance of the International Union but contrary to relevant constitutional provisions.” Emphasis added. However, while Brother Bairos, during the hearing, suggested that some of the members who were allowed to vote under the 6-month rule could have had earlier delinquencies that were not attributable to employer check-off noncompliance (*see* Transcript at p.47, 76), there is no record evidence that any voter who was enfranchised by the 6-month rule, in fact, had an earlier delinquency that was not attributable to employer check-off noncompliance; and it would have

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<sup>15</sup> Secretary-Treasurer Bairos testified to the following exchange between Brother Bairos and Election Supervisor Markowitz:

Markowitz informed me on Tuesday that he was advised to do this and I disagreed with him then. He informed me off to the side before I met with Taibi and him before he called us together and said he was going to count. I told him I disagreed. He said, you’re going to write the protest afterwards – which I know I had to write the protest afterwards. Transcript at p. 70.

The fact that the Election Supervisor may have believed that the Membership Slate could make a post-election protest instead of challenging the ballots of the members who were enfranchised by the application of the 6-month rule in no way changes what was required under the Constitution.

been impossible to introduce such evidence given that the ballots of the members who were enfranchised by the 6-month rule were not challenged by the Membership Slate.<sup>16</sup>

Therefore, contrary to the claim of the Membership Slate, there is no evidence from which the Panel can conclude that any ineligible members cast ballots, let alone a sufficient number to affect the outcome of the election.<sup>17</sup>

**B. The Membership Slate has waived its right to challenge the 6-month voter eligibility rule.**

As noted above, the evidence, including the evidence offered by the Membership Slate, was that the 6-month rule concerned members who were on dues check-off and who had unresolved dues delinquencies.<sup>18</sup> Beyond the fact that there is no evidence that the application of the 6-month rule resulted in any ineligible member voting, the Panel further finds that the Membership Slate waived its right to challenge, post-election, the adoption of the 6-month voter eligibility rule.

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<sup>16</sup> Shortly before the hearing concluded, Brother Bairos acknowledged, in effect, the lack of evidence that any votes were cast by ineligible members:

Q (By JC 10 S-T Laughton) How was it that the IBT ruled that 433 members –

A (By L251 S-T Bairos) How? Because when it came over – because they were delinquent, in delinquent or suspended status; many of them were requested.... But of the 433 questioned, again, we didn't have the opportunity to call the employer or employers, who were delinquent and some suspended prior to the six months. But again, if you're out and, you know, it's through no fault of your own then, that's right, the votes count if the employer screwed up on the dues check-off. Transcript at p. 76.

<sup>17</sup> Certainly, it would not be unreasonable to assume that a number of voters would have failed the 2-part test had the votes been challenged; but the Panel must rule on the evidence and not based on assumptions. In addition, there were 433 members who voted based on the application of the 6-month rule. Given that the smallest margin of victory was 98 votes, a substantial percentage of the voters who now are the subject of this protest would have had to have failed the 2-part test to affect the outcome of the election.

<sup>18</sup> Explaining the 6-month rule as applied in the Local 251 election, Matthew Taibi testified as follows: "As explained by Brother Mike Markowitz, all members on dues check-off who had dues withdrawn and transmitted in each of the last six months were treated as ineligible to vote if they had earnings that were insufficient to cover dues in one or more of those six months and failed to self-pay. His resolution of the eligibility issue did not apply to self-payers. In other words, self-payers who were delinquent during the six-month period were treated as ineligible." Transcript at p. 58.

In this regard, according to the testimony of Secretary-Treasurer Bairos, the Membership Slate was aware, shortly after October 17<sup>th</sup>, that the 6-month rule was being applied and resulted in ballots being sent to members who were on dues check-off, who had dues delinquencies and who had not previously been sent ballots. *See* Transcript at p. 42.<sup>19</sup> Under Article XXII, Section 5(a), a member is required to file a pre-election challenge “within forth-eight (48) hours of his knowledge of the event complained of and shall specify the exact nature and specifications of the protest.” No pre-election protest was submitted by any member of the Membership Slate (*see* Transcript at p. 51), because the Membership Slate, apparently reluctantly, agreed to the adoption of the 6-month rule.

As pointed out by the Membership Slate in its post-election protest and as repeated in its testimony, internal Union elections are subject to the requirements of the LMRDA. However, one of those requirements is that a protesting member must exhaust properly the Union’s election protest procedures including filing a timely pre-election protest when applicable; and that a member who fails to properly exhaust the internal protest procedures waives his challenge and places that matter outside the scope of a challenge under the LMRDA.

For example, in its Statement of Reasons (dated August 24, 2012) involving a challenge to a Teamsters Local 2727 election, the OLMS stated as follows:

The remaining allegations were not properly raised pursuant to the union’s mandatory pre-election protest procedures, and therefore, could not be asserted after the election. *See* Teamsters International Constitution, Article XXII, Section 5(a) and Article VI, Section 2(a). Because you were aware of these issues prior to the election, but failed to

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<sup>19</sup> (By S-T Bairos) “At that time, an International Union representative from the Legal Department strongly advised that the Local substitute a modified voter eligibility rule whereby members who were on dues check-off for the six months prior to the election be deemed eligible to vote notwithstanding an earlier unpaid delinquency. This modified voter eligibility rule was endorsed by the Local Union’s Election Supervisor but was never formally or officially announced to the membership at large. Some 433 members originally were determined by the IBT to be ineligible to vote because of a dues arrearage and were not sent ballots. Subsequent to the meeting in Washington on October 17<sup>th</sup>, some 290 members requested and were sent ballots....”

protest the issues until after the election, these allegations were not properly exhausted under the union's election procedures. Accordingly, the Department found these allegations outside the scope of its investigation.

Similarly, in the Statement of Reasons (dated October 12, 2011), involving a challenge to the conduct of an internal union election at Teamster Local 743, the OLMS stated as follows:

The IBT Constitution, Article XXII, Section 5(a) requires that protests concerning events occurring prior to the election "be made in writing by [the] member within forty-eight [48] hours of his knowledge of the event complained of ... to the Local Union Secretary-Treasurer...." The Joint Council 42 election protests panel found that you did not file a timely pre-election protest and thus waived your right to protest the matter. Because you failed to properly protest this matter internally, this allegation is not properly before the Department and was not investigated.

In the instant matter, the hearing record is clear that the Membership Slate was aware, shortly after October 17, that the 6-month rule was being applied so that ballots were being requested and sent to members who were on dues check-off and who had dues delinquencies. Thus, the adoption of the 6-month rule, which is now the subject of the post-election challenge, was a pre-election challenge that was waived by the Membership Slate. In turn, and as noted in Part A above, any challenge to the results of the application of the 6-month rule similarly was waived when the Membership Slate failed to challenge any of the ballots that were associated with the application of the 6-month rule and that, ultimately, were commingled with the other ballots that were counted.

**C. The Membership Slate has waived its right to challenge the defective notice provided to members who had not received an initial ballot.**

As noted earlier, in the pre-election protest made by one of the members of the United Action Slate to the incumbent Local 251 Executive Board, the protester requested that "[a]ll Local 251 members who have not been mailed a ballot should immediately be mailed a ballot." United Action Slate Exhibit 3. Obviously, had the remedy requested by the United Action Slate been implemented by the incumbents, the issue of defective notice would not have arisen.

Moreover, since the Membership Slate was comprised of the incumbent Officers and Business Agents, the Membership Slate controlled how the Members who were affected by the adoption of the 6-month rule would be notified of the fact that they could request and receive a ballot, post-October 17. Lastly, and most importantly, the Membership Slate, which was made up of the incumbent Officers and Business Agents, was aware, well before the October 30<sup>th</sup> election, of any issues arising out of the dissemination (or lack thereof) of information concerning the adoption of the 6-month rule.

Therefore, for the reasons set out in detail in Part B, *supra*, the Panel finds that the Membership Slate has waived its right to challenge the defective notice provided to members who had not received an initial ballot.

### **DECISION**

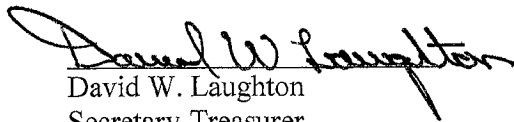
For the reasons set out in detail above, the Executive Board of Joint Council 10 denies, in each respect, the protests filed by the Membership Slate.

In so ruling, the Executive Board does not mean to imply that the election was properly conducted in that, in the opinion of the Executive Board, the process was constitutionally defective and also did not meet the requirements of the LMRDA in at least two ways. First, as pointed out in the pre-election challenge filed by the United Action Slate, literally hundreds of Local 251 members who should have received ballots in the initial mailing were not sent ballots. Second, the “remedy” implemented in response to the failure, in the first instance, to send out ballots to members with dues delinquencies, including members on dues check-off, was imperfect as it did not ensure that all members who had not received ballots in the initial mailing would be provided a ballot, albeit belatedly, and did not even ensure that all members who had

been excluded from the first mailing of ballots would receive notice of their right to request a ballot.

Accordingly, had a timely post-election protest been made by one or more non-candidate members of Local 251 who could have persuasively argued that they had not had notice of the pre-election issues and, of course, would not have been in a position to challenge any ballots, the Executive Board likely would have ordered a new election. However, these protests were not made.

Dated: December 23, 2013

  
David W. Laughton  
Secretary-Treasurer

\_\_\_\_\_  
David A. Lucas, Jr.  
President

\_\_\_\_\_  
Alice T. Riley-King  
Trustee

\_\_\_\_\_  
Dennis E. Raymond  
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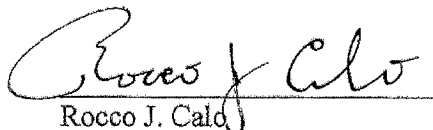
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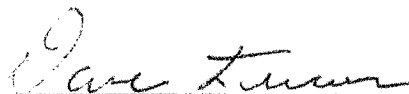
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Secretary-Treasurer

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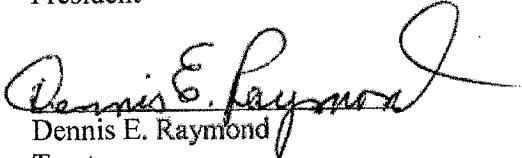
Alice T. Riley-King  
Trustee

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Rocco J. Calo  
Trustee

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David A. Lucas, Jr.  
President



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Dennis E. Raymond  
Trustee

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Jeffrey Parkinson  
Trustee, Local 633 (by designation)

been excluded from the first mailing of ballots would receive notice of their right to request a ballot.

Accordingly, had a timely post-election protest been made by one or more non-candidate members of Local 251 who could have persuasively argued that they had not had notice of the pre-election issues and, of course, would not have been in a position to challenge any ballots, the Executive Board likely would have ordered a new election. However, these protests were not made.

Dated: December 23, 2013

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David W. Laughton  
Secretary-Treasurer

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David A. Lucas, Jr.  
President

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Alice T. Riley-King  
Trustee

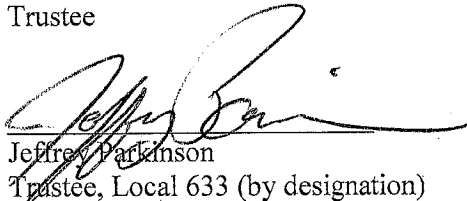
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