

# JOINT COUNCIL OF TEAMSTERS NO. 28

Affiliated with the International Brotherhood of Teamsters

14675 Interurban Ave S, Suite 301  
Tukwila, Washington 98168  
(206) 441-7470 • Fax (206) 441-3157



RECEIVED

FILE

Rick Hicks, President

March 21, 2014

MAR 24 2014

Mr. Patrick Oliver  
2112 S. 9<sup>th</sup> Ave.  
Union Gap, WA 98903

TEAMSTERS  
LOCAL 760

**Certified Mail**  
**7011 0110 0002 2223 5311**  
**Return Receipt Requested**

Mr. Leonard Crouch, Secretary-Treasurer  
Teamsters Local Union No. 760  
1211 West Lincoln Ave.  
Yakima, WA 98902

**Certified Mail**  
**7011 0110 0002 2223 5328**  
**Return Receipt Requested**

**RE: LOCAL 760 POST ELECTION PROTEST HEARING DECISION**

Dear Brothers Oliver and Crouch:

Enclosed please find the decision of the Executive Board Hearing Panel for the Joint Council of Teamsters No. 28 concerning the Teamsters Local Union No. 760 Post-Election Protest brought by Teamsters Local Union No. 760 Member Patrick Oliver. Also, pursuant to Article XIX, Section 2(b) of the International Constitution, all parties shall have the right to purchase copies of the transcript on an equal basis. Please contact Groshong-Quaintance at (253) 838-1282 to arrange for a copy of the transcript.

Be advised that any party feeling aggrieved by the decision of the Executive Board Hearing Panel herein has the right to appeal this decision to the General Executive Board of the International Brotherhood of Teamsters, 25 Louisiana Avenue, NW, Washington D.C. 20001. To be considered timely, any appeal must be taken "within fifteen (15) calendar days from the date of the decision is placed in the mail or otherwise transmitted to the interested parties." See IBT Constitution, Article XIX, Section 2.

Fraternally,

**JOINT COUNCIL OF TEAMSTERS NO. 28**

**RICK HICKS, President**

RH:dm

Enclosure

cc: JC-28 Executive Board Members



## DECISION

### EXECUTIVE BOARD HEARING PANEL JOINT COUNCIL OF TEAMSTERS NO. 28 (LOCAL 760 ELECTION PROTEST)

This matter came on for hearing in a timely manner on January 31, 2014, for consideration of the post-election protest dated October 9, 2013, filed by Brother Patrick Oliver regarding his unsuccessful run for the position of President for Teamsters Local 760, an election that was held on October 7, 2013.

The hearing was convened and held in accordance with the IBT Constitution and the by-laws of Joint Council of Teamsters No. 28.

The Joint Council Executive Board Hearing Panel consisted of Darren O'Neil, Secretary-Treasurer of Local 252; Steven Chandler, Secretary-Treasurer of Local 38, and Tracey Thompson, Secretary-Treasurer of Local 117. Brother O'Neil chaired the Panel.

No preliminary matters or motions were presented prior to the start of the hearing.

Brother Oliver was present at the hearing and afforded the opportunity to make an opening statement, to introduce exhibits into the record, to testify, to call witnesses, to cross-examine witnesses, and to make a closing statement. Brother Oliver was assisted at hearing by Brother Paul Arambul.

The election was defended on behalf of the Local by Brother Wayne Johnson, who was present at the hearing and afforded the opportunity to make an opening statement, to introduce exhibits into the record, to testify, to call witnesses, to cross-examine witnesses, and to make a closing statement. Secretary-Treasurer of Local 760 Leonard Crouch was also present at the hearing and gave sworn testimony.

A transcript of the hearing was prepared and has been retained by Joint Council No. 28.

Based on the evidence presented at hearing, the Executive Board Hearing Panel finds and rules as follows:

1. Brother Oliver's October 9, 2013, election protest on its face identifies thirteen (13) separate challenges to the most recent Local 760 election contest for the position of President. The Executive Board Hearing Panel finds that this election protest actually consists of eleven (11) separate election charges, each of which it addresses in turn below.<sup>1</sup>
2. Brother Crouch did not dispute that all procedural requirements for this election protest were satisfied, i.e., that all of Brother Oliver's election charges at issue at this hearing were timely raised "within seventy-two (72) hours after the final tally of ballots setting forth the exact nature and specifications of the protest and his claim as to how it has affected the outcome of the election," as required by Section 16(G)(2) of the By-Laws of Teamsters Local Union No. 760. Having heard no assertion to the contrary, the election protest is deemed procedurally proper and appropriately before this panel for resolution.

---

<sup>1</sup> Readers of this ruling should note that the numbers assigned to each of these election charges do not correspond with the numbering used by Brother Oliver in his October 9, 2013, election protest letter.

### 3. Election Charge No. 1.

Brother Oliver asserts that he and certain other members in good standing of Local 760 desired to run in the October, 2013, election as a slate, "Teamsters for a Better Tomorrow." Brother Oliver further asserts that this putative slate was "intentionally denied the right to participate in the ballot design." By this, Brother Oliver apparently means that he and the other non-incumbent candidates who ran as individuals were denied the right to be designated on the ballot as the "Teamsters for a Better Tomorrow" slate, but instead appeared on the ballot solely in their individual capacities.

According to Brother Oliver, when he attended the nominations meeting on September 4, 2013, which was a "special meeting" called pursuant to Section 16(D)(1) of the By-Laws of Teamsters Local Union No. 760 (hereafter, "Local 760's By-Laws"), "one of the statements made was that 'this was a meeting for nominations only' and no other business would be brought." Brother Oliver further claims that he was never notified at any time "of any special meeting related to the conduct of the election," per Section 16(D)(1) of Local 760's By-Laws. The essence of Brother Oliver's complaint is that since he did not know that "ballot design" would be addressed later that same evening, after the "special meeting" dealing only with "nominations" adjourned, and he and his fellow slate members did not wait around long enough to learn that fact, they were denied the right to run as a slate and that this effected the outcome of the election.

According to the minutes of the September 4, 2013 nominations meeting presented by Local 760, this was a "special meeting" dealing only with nominations. The meeting was called to order at 7:00 p.m. and was adjourned at 7:14 p.m. At that time, certain things occurred, some of which are in dispute, some of which are not. Based on all of the evidence presented at hearing, the Executive Board Hearing Panel concludes that the following events occurred:

- (1) Brother Oliver and certain other members of his putative slate were asked to stay after the meeting by Brother Crouch while office staff determined the eligibility of the various nominated candidates.
- (2) Approximately 15 to 20 minutes passed. During this time period, Brother Oliver and others largely remained outside of the office area, waiting for eligibility to be determined.
- (3) At that point, Brother Oliver and others on his putative slate reentered the office area, in the words of Robert C. Hawks, Secretary-Treasurer of Teamsters Local 839, who was the chair of the nominations meeting, "asking how much longer it would take" to determine eligibility. "Shortly after their inquiry," according to Mr. Hawks, Mr. Crouch "announced that there were not any eligibility issues and without any discussion those that had been outside announced displeasure in having to stay and departed out the back door."
- (4) At some point during these conversations, Brother Crouch informed Brother Oliver and others on his putative slate that there were still "points of order to discuss." The panel was not presented with evidence that after the meeting, during or after the time period when eligibility issues were being addressed, Brother Crouch or any other representative of Local 760 directly informed Brother Oliver that he or any of the

other candidates on his putative slate needed to stay in order to be presented on the ballot as a slate.

- (5) The Executive Board Hearing Panel finds that Brother Oliver was not aware that he was required to stay at the location of the adjourned nominations meeting in order to run as part of a slate. Nor was Brother Oliver informed of any other method whereby he could or should make known his desire to run as a slate.

In light of the above-stated facts, the Executive Board Hearing Panel makes the following legal and factual conclusions.

First, it does not appear from the record before the Executive Board Hearing Panel that Local 760 clearly informed potential challengers of the rules or policies that Local 760 intended to apply to the question of “ballot design,” i.e., in this case, whether or not a group of candidates could run as a slate. While there was some testimony at hearing, and there is some suggestion in the documents, that Brother Oliver and others were told that “ballot placement” matters would be addressed sometime after the nomination meeting, based on the evidence presented at hearing the Executive Board Hearing Panel finds that at most, Brother Oliver and other challengers were told that “there are points of order to discuss.” *See, e.g.*, the October 8, 2013 statement of Andrea Perez, Bookkeeper for Local 760; *see also* arguments number 7 and 8 presented by Local 760 in the first page following the tab entitled “Charge 1” in the notebook provided on behalf of Local 760, which read, in pertinent part:

7. Deny that the nominee’s were never notified. Mr. Crouch informed them numerous times that there were points of order to discuss.... About 10 minutes right after Mr. Couch informed the group that all nominator’s and seconders were indeed eligible, the group of nominees again questioned whether they need to stay. Mr. Crouch stated once more that there were points of order to discuss. Mr. Oliver then stated “we don’t have to stay, the meeting’s been adjourned.” Mr. Crouch stated a final time that there were points of order to discuss and someone responded with “we’re leaving.”....

8. The failure of some nominees to understand what points of order to discuss meant, cannot be charged to election misconduct.

Second, while a union is free to employ “any method that will provide a reasonable opportunity for making nominations,” 29 CFR § 452.57, there is an “affirmative duty to provide [] members the information necessary for enjoyment of their LMRDA § 481(e) right to nominate, vote, and run in union elections.” *Herman v. New York Metro Area Postal Union*, 30 F. Supp. 2d 636, 650 (S.D.N.Y. 1998). When a union imposes requirements that are not sufficiently disclosed to the membership to allow these rights to be fully exercised, the union has run afoul of this federal law. While the right to run as a “slate” is not specifically encompassed in the right to run for office, the general principle that all preconditions and requirements applicable to running for office must be disclosed to the membership applies to all aspects of running for office, including the right to run as a slate.

Third, the incumbents understood the expectation that they had to remain at the meeting in order to obtain a slate designation. Consequently, failure of the union to take affirmative steps to clearly provide all candidates with that same information is problematic. This is because “[b]urdens on non-incumbent candidates should be critically scrutinized on account of the advantage that incumbents or committee-selectees naturally enjoy relative to rank-and-file members.” *Reich v. Local 89, Laborers’ Int’l Union of N. Am., AFL-CIO*, 36 F.3d 1470, fn. 3 (9th

Cir. 1994) (citing *Donovan v. CSEA Local Union 1000*, 761 F.2d 870, 876 (2d Cir. 1985) (internal quotations omitted). “Scrutiny of such burdens is especially critical,” because one of the concerns that motivated the LMRDA was the need to even the playing field for challengers to entrenched incumbents. *Donovan*, 761 F.2d at 876.

In this case, nothing in Local 760’s By-Laws informed candidates how to run as a slate, and no instructions were given to candidates as to how to do so. The incumbents made a decision to arrange for candidates to run as a slate at a “post-nominations meeting.” See Tr. 89 (Leonard Crouch: “That’s when I intended it to happen, and that’s when our slate did.”) The incumbents had an obligation to share that information with the challengers.

Courts are offended by the appearance of such unequal treatment. Again from the Southern District of New York federal district court:

Members seeking nomination thus had to consult the Constitution while conducting whatever other business they had at the meeting, whether as nominees or otherwise. Even if they had some opportunity to consult the Constitution, this is a sharp contrast to the assistance that Metro officers provided for members of the incumbents’ slate. At the caucus the day before, the Metro Executive Secretary, Ms. Alexander, provided all members of the slate with forms requesting all necessary information and then collected the forms herself. Any reasonable fact finder would conclude that Metro officials provided highly uneven notice: personal assistance with requirements for incumbents’ slate members but mere availability of muddy texts for the rank and file. Even if an intrepid member could have complied, Metro officers made that task appreciably more burdensome by withholding the assistance their political allies enjoyed. This violates the LMRDA § 481(e) requirement of “reasonable qualifications uniformly imposed” as exactly the sort of uneven playing field that courts warn unions not to create.

*Herman*, 30 F. Supp. 2d at 649.

In light of the foregoing, the Executive Board Hearing Panel finds that Local 760’s failure to inform nominees at the September 4, 2013 meeting precisely what Local 760 *meant* by stating that there were still “points of order to discuss,” and the failure to inform all candidates of the steps and procedures they needed to follow in order to run as a slate, warrants a finding that this election charge be sustained.

#### **4. Election Charge No. 2.**

Brother Oliver asserts that he was not notified of his eligibility status by Secretary-Treasurer Crouch in a timely fashion. Indeed, Brother Oliver testified before the Hearing Panel that he received no communication from Brother Crouch regarding his eligibility inquiries. Brother Crouch presented as an exhibit (submitted behind the tab entitled “Charge 2”) a letter from him to Brother Oliver dated May 28, 2013, more than three months’ prior to the nominations meeting, informing him that the attendance requirement for eligibility would be waived for all candidates in the upcoming election. Additionally, Brother Crouch presented a certified mail receipt signed by Brother Oliver’s wife, demonstrating that this letter was delivered to Brother Oliver’s address. *Id.* Once confronted with this evidence, Brother Oliver could not deny that this letter was sent to him. The Executive Board Hearing Panel finds that this election charge is frivolous and without merit.



**5. Election Charge No. 3.**

Brother Oliver asserts that he was prejudiced by the decision of the General President, James P. Hoffa, to deem provisionally ineligible approximately 2,200 Local 760 members, a decision that the evidence suggests was made necessary because of these members' employers' failure to forward automatically deducted membership dues to Local 760 in a timely fashion.

It is not disputed, however, that only 354 ballots were challenged on the basis of possible ineligibility based on the communication received from the International Brotherhood of Teamsters ("IBT"). It is also not disputed that 354 is substantially less than the margin of victory between any member of Brother Oliver's putative slate and the successful (incumbent) slate. For this reason, the eligibility of any of these ballots did not need to be resolved, because the election results could not thereby have been affected. *See* October 7, 2013, Certification of Result by TrueBallot, Inc. ("TrueBallot") (tab entitled "Charge 4" in the materials presented as exhibits by Local 760) (hereafter, "Certification of Result").

The Executive Board Hearing Panel finds that this election charge is without merit for two reasons.

First, it was not within the authority of Local 760 to accept as valid ballots submitted by voters who the IBT has, for any reason, flagged as ineligible to vote.

Second, the flagging of these ballots as having been cast by potentially ineligible voters was in fact only "provisional"; had further investigation been necessary (i.e., if the election had been close enough that these ballots could have been determinative of the outcome), the validity of these ballots would have been scrutinized consistent with the argument for their validity raised by Brother Oliver (i.e., that the only reason these voters were deemed ineligible was their employer's failure to timely transmit deducted dues) and, in each case where that argument was correct, the ballots would have been ruled valid and thus been counted.

**6. Election Charge No. 4.**

Brother Oliver asserts that his right to challenge individual ballots was violated because they were provided with no opportunity to challenge all individual ballots on any grounds. It is not disputed that of the 673 counted ballots, *see* Certification of Result, only 52 were showed to the candidates. Even assuming that these 52 ballots were potentially subject to challenge (the testimony is unclear on this point), it is not disputed that the remaining 621 ballots were processed electronically by TrueBallot, and no candidate was given the opportunity to view or challenge the validity of any one of those ballots. *See, e.g.,* Tr. 99.

The Executive Board Hearing Panel has no reason to believe that TrueBallot did not accurately scan and count all 673 ballots cast in this election. However, it is beyond dispute that Brother Oliver was denied the opportunity to view and potentially challenge at least 621 of those ballots.

Although neither Local 760's By-Laws nor the Constitution of the International Brotherhood of Teamsters are explicit on this point, it appears that both of those documents contemplate that candidates will have the opportunity to view and potentially challenge ballots that they believe should not be counted. Section 16(E)(2) of Local 760's By-Laws, for example, declares that "Any ballot shall be declared void if it contains any mark other than the voting mark." Art. XXII, Sec. 4(b) of the International Constitution states the same. A candidate

who has been deprived of the right to view all ballots has been deprived of the opportunity to assert this right.

Additionally, Local 760's By-Laws provide that candidates have the right to have an observer present "at the counting of the ballots." Section 16(E)(3). The candidates themselves also have the right to be present. *Id.* The International Constitution similarly provides that candidates have the right to be present at the counting of the ballots. Art. XXII, Sec. 4(b). It is hard to see what purpose is served by these provisions if "the counting of the ballots" is conducted in such a way that neither candidates nor their observers can effectively observe the counting process.<sup>2</sup>

In light of the above, the Executive Board Hearing Panel finds that the procedure of permitting TrueBallot to count ballots that were never shown to candidates and that therefore were not potentially subject to challenge, warrants a finding that this election charge be sustained.<sup>3</sup>

**7. Election Charge No. 5.**

Brother Oliver asserts that during the campaign, "the Team 760 slate, business agents and office staff" illegally colluded with employers.

No evidence was presented that even remotely supports this claim. This claim is inflammatory, specious and wholly unfounded. Brother Oliver presented no evidence that any greater access was granted to or obtained by any Team 760 slate representative than was granted to or obtained by any other candidate, including Local 760 employees or officers. The Executive Board Hearing Panel therefore finds that this election charge is entirely without merit.

**8. Election Charge No. 6.**

Brother Oliver asserts that the observers selected by the Team 760 slate were "un-fit to quality as observers." However, Local 760 has shown (in the materials it presented at the tab entitled "Charge 6") that Team 760 slate had only one observer, Steve Bruchman, whose fitness to be an observer has not been challenged. The Executive Board Hearing Panel finds that this election charge is without merit.

**9. Election Charge No. 7.**

---

<sup>2</sup>Local 760's By-Laws also provide that the observers "may challenge the eligibility of voters" prior to the blank envelope containing the ballot being opened. Section 16(E)(3). It is not clear from the record whether this provision of the By-Laws was complied with on October 7, 2013, but Brother Oliver has not alleged any violation of his right with regard to this issue.

<sup>3</sup> Local 760 asserts, at the tab entitled Charge 4 and at Tr. 93, that "Charging party did not ask to challenge any ballots at any time during the ballot counting procedure." However, there was also no evidence that the charging party was given any opportunity to challenge ballots or understood that they had a right to do so. Conversely, it is not disputed that 621 ballots, at least, were never even "flashed" "across the screen." Tr. 98. Given that it was Local 760's obligation to run an election that complied with its By-Laws and the International Constitution, the failure of Brother Oliver to make a specific demand to see each ballot does not alter the conclusion stated above.

Brother Oliver asserts that returned ballots were not properly secured. No reliable evidence was presented in support of this claim, and Local 760 demonstrated that TrueBallot had custody of all ballots from the time they were obtained from the United State Post Office to the time they were counted. The Executive Board Hearing Panel finds that this election charge is without merit.

**10. Election Charge No. 8.**

Brother Oliver asserts that in the process of tallying ballots, any ballot that indicated support both for an individual candidate, such as Brother Oliver, and also support for the slate, was improperly counted as a vote for the slate. It is not disputed that, based on the ruling of Thomas Leahy, a vote for the slate took precedence over any other vote for a candidate that might also have appeared on the ballot. *See*, Tr. 35.

An election rule that grants priority to a vote for a slate over inconsistent votes for individual candidates is lawful. In *United States v. Int'l Bhd. of Teamsters, Chauffeurs, Warehousemen & Helpers of Am., AFL-CIO*, 896 F. Supp. 1349, 1371 (S.D.N.Y. 1996), the court considered election rules adopted by a government election officer charged with conducting the 1996 Teamsters officers election pursuant to a Consent Decree. The proposed rules incorporated by reference the election-related provisions of the LMRDA. One of the rules provided "in the event that a voter marks a ballot for both a slate of candidates and an inconsistent individual candidate, the ballot is counted as a vote for the slate of candidates and the marking for the individual candidate is disregarded." This same rule was applied during the 1991 election which was conducted pursuant to the same Consent Decree. Local 1150 argued that the rule was "inconsistent with federal law, which requires that a ballot be counted in accordance with the intent of the voter, and argues that markings for individual candidates should take precedence over a marking for a slate of candidates." *Id.* at 1371. The court rejected that argument, holding:

While it is true that courts have required that ballots be counted in accordance with the intent of the voter, Local 1150 has failed to demonstrate that giving a marking for a slate of candidates precedence over markings for inconsistent individual candidates is contrary to the voter's intent. Local 1150 argues that "[a] mark placed next to the name of an individual candidate plainly indicates the voter's deliberate and considered decision to vote for that individual." .... One might argue with equal force, however, that a mark placed next to a slate of candidates plainly indicates the voter's deliberate and considered decision to vote for that slate. The problem addressed by the proposed rule only arises, after all, when the markings on a particular ballot cannot be interpreted consistently. Thus, the preference given in the proposed rules to the marking for a slate of candidates is a reasonable interpretation of the voter's intent. Moreover, this rule applied during the 1991 IBT election and, therefore, the IBT membership is already accustomed to this rule. Adopting an opposing rule for which there is no more reasonable justification would simply create undue confusion. Accordingly, the objection is overruled.

*Id.*

However, the fact that this election rule could legitimately have been adopted by Local 760 does not resolve this objection. Implicit in the legal authority cited above is the circumstance that the rule granting priority to votes for a slate was adopted as part of the election rules



*prior* to the date of the election. Thus, in those cases voting members were on notice as to how their ballots would be evaluated.

In the instant election, in contrast, such an election rule was not communicated to members. We do not believe that all or substantially all members of Local 760 can be held to have been on notice that this election would be held under precisely the same rules and guidelines that apply to elections run by the International Union; nor have we been provided with evidence that all or substantially all members of Local 760 are even aware of those rules and guidelines.

In light of the absence of any instructions regarding how ballots containing both a vote for a slate and an inconsistent vote or votes would be treated, the Executive Board Hearing Panel finds that such ballots should have been rejected by TrueBallot as ambiguous and should not have been counted as votes for the slate. For this reason, the Executive Board Hearing Panel finds that this election charge should be sustained.

**11. Election Charge No. 9.**

Brother Oliver contends that some current members of Local 760 wrongfully failed to receive their ballots and that other persons who were *not* members of Local 760 in good standing erroneously received ballots when they should not have. Brother Oliver also contends that Local 760 wrongfully refused to issue replacement ballots to a list of members whose names and addresses he delivered to the Union.

Neither direct nor circumstantial evidence was presented to support a claim that Local 760 acted wrongfully or anything less than diligently with regard to its duty to ensure that all members in good standing received ballots and that only such members received ballots. Local 760 also acted properly in not sending replacement ballots to members who had not themselves requested such. The Executive Board Hearing Panel therefore finds that this election charge is without merit.

**12. Election Charge No. 10.**

Brother Oliver asserts that during the campaign, the Team 760 slate used Local 760 funds, resources, facilities and properties, including Local 760 business agents and office staff, to design, print and distribute "Team 760" campaign fliers and to campaign for the slate, both on and off of employer property. No evidence was presented that even remotely supports this claim, which appears to be wholly unfounded. The Executive Board Hearing Panel therefore finds that this election charge is entirely without merit.

**13. Election Charge No. 11.**

Brother Oliver asserts that prior to or during the campaign, the Team 760 slate engaged in a variety of other improper actions, including (but not limited to) allowing its representatives to directly or indirectly harass and threaten Brother Arambul and filing false documents related to the misconduct of Juan Orozco in order to further their campaign. No evidence was presented that even remotely supports these claims. Indeed, the evidence that was presented by Local 760 demonstrates that a full investigation was performed by Brother Arambul's employer into claims of harassment and threats, and that the employer concluded that Brother Arambul appeared to be the aggressor in any altercation with Local 760 slate members and that documents relating to Juan Orozco were prepared by the IBT auditor in connection with

findings of wrong-doing. The Executive Board Hearing Panel therefore finds that this election charge is entirely without merit.

### CONCLUSION

Although neither Local 760's By-Laws nor the Constitution of the IBT are explicit on this point, it appears that an election protest should only be considered meritorious if the acts that constitute the basis for that protest "affected the outcome of the election." Section 16(G)(2) of Local 760's By-Laws; Art. XXII, Sec. 5(b) of the International Constitution. By analogy to the LMRDA, the test is not whether it can be shown that a violation of proper election procedures actually affected the outcome of an election, only that it *may* have. *Reich*, 36 F.3d at 1478. By proving a violation of 29 U.S.C. 481(e), the Secretary of Labor establishes a prima facie case that the violation may have affected the outcome of the election. *Wirtz v. Hotel, Motel & Club Employees Union, Local 6*, 391 U.S. 492, 506, 88 S.Ct. 1743, 1751, 20 L.Ed.2d 763 (1968). The burden then shifts to the union to show that the violation had no effect on the outcome of the election. *Reich v. Local 89, Laborers' Int'l Union of N. Am., AFL-CIO*, 36 F.3d 1470, 1478 (9th Cir. 1994).

Unity, solidarity, and belief in collective action are bedrock principles of the Teamsters Union. Notwithstanding the margin of victory that the incumbents obtained over the challengers, which was no fewer than 516 votes out of the 673 votes cast in any race, and which was in the case of Brother Oliver's race for President a margin of 522 votes, the Executive Board Hearing Panel cannot say with certainty how many voters, seeing Brother Oliver listed on the ballot as a lone individual, not as someone running on a slate, may have declined to support his candidacy for that reason alone.


Additionally, pursuant to the rules under which ballots were tabulated, any ballot that contained markings indicating support for both the incumbents' slate and individual challengers was treated as a ballot in support of the slate. Because, as was discussed above, the voters in this election were never informed of this rule, the combination of the failure to void ballots containing inherently inconsistent markings and the failure to instruct candidates as to how to run as a slate conferred another substantial benefit to the incumbents in this election.

Together with the foregoing, the fact that Brother Oliver was denied the ability to view, and thus challenge, all or most of the ballots casts by members (Election Charge No. 4, discussed above) supports the conclusion that this election must be rerun. Although the Executive Board Hearing Panel has no reason to believe that TrueBallot did not accurately scan and count all 673 ballots cast in this election, we cannot say with certainty that this violation of proper election procedures, combined with those set forth above, did not contribute to an election result that otherwise might have been different.

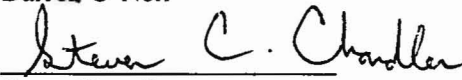
For the foregoing reasons, the Executive Board Hearing Panel has determined that the Teamsters Local 760 election that was held on October 7, 2013 must be rerun. We further conclude that the rerun election should be conducted under the supervision of the Joint Council of Teamsters No. 28, with all costs associated with the rerun to be assumed by Local 760.

**JOINT COUNCIL EXECUTIVE BOARD HEARING PANEL**

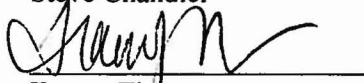
Signed:

  
\_\_\_\_\_  
Darren O'Neil

3/16/14  
Date

  
\_\_\_\_\_  
Steve Chandler

3/17/14  
Date

  
\_\_\_\_\_  
Tracey Thompson

3-20-14  
Date