

RICHARD W. MARK
Election Supervisor

**MEMORANDUM ON THE CONCLUSION OF
CAMPAIGN FINANCE REPORTING –
2010-2011 IBT INTERNATIONAL OFFICER ELECTION**

This memorandum contains instructions on the final Campaign Contribution and Expenditure Report (“CCER”) and Supplemental Form No. 1 filings, the handling of debt that remains at the time of the final report, and handling of surplus funds.

I. FILING THE FINAL CCER AND THE FINAL SUPPLEMENTAL FORM NO. 1

The final CCER and Supplemental Form No. 1 are due on January 17, 2012, will cover the reporting period from November 16, 2011 to December 31, 2011.¹ In addition to these reports, each slate, candidate and independent committee must file an affidavit with the Office of the Election Supervisor (“OES”) stating that all debt obligations have been satisfied and all bank accounts have been closed. If a campaign has any outstanding debt at the time of the filing, the final CCER must include a debt statement.

II. CAMPAIGN DEBT

Campaign debts that remain due at the time of the final CCER filing will be deemed campaign contributions if the creditor is not making commercially reasonable attempts to collect the debt. *Rules*, Article XI, § 1(b)(11). Debt owed to entities that the *Rules* prohibit from making campaign contributions must be paid or resolved in a commercially reasonable manner. *See Hoffa 2006 Campaign Debt*, 2007 ESD 404 (March 28, 2007).

The *Rules* require the filing of a debt statement with the final CCER, whether or not a debt is settled. This statement must indicate the amount initially owed, the date the debt was incurred, the amount paid, the terms of a debt settlement, if any, and the basis for any reduction (that is, the basis for considering the settlement to be commercially reasonable). Documents related to the debt including all contracts or written agreements, documents concerning the provision of the goods or services, bills, checks and receipts should be attached to the statement.

¹ The *Rules* set Monday, January 16, 2012, as the filing deadline for the final report. Because Martin Luther King, Jr. Day will be observed on that day, the due date for the final CCER and Supplemental Form No. 1 filings will be extended to Tuesday, January 17, 2012.

**MEMORANDUM ON THE
CONCLUSION OF CAMPAIGN FINANCE REPORTING –
2010-2011 IBT INTERNATIONAL OFFICER ELECTION**

DECEMBER 19, 2011

PAGE 2

Each campaign is responsible for creating and submitting to the OES, its own debt statement. The web-based campaign reporting system (“CCERS”) cannot produce this statement. Completed debt statements should be sent to the OES office by mail, by fax, or by email to ElectionSupervisor@IBTvote.Org.

The continued monitoring of debt is important to ensure that election funds remain free of improper contributions. For this reason, the OES retains jurisdiction over campaign funding issues until all debt is fully paid and appropriate debt settlement statements filed.

III. SURPLUS FUNDS

Surplus funds are monies remaining after all debts and obligations have been paid. Campaigns should prepare to close out all bank accounts. For the purpose of closing out bank accounts, surplus funds in the general election fund and any escrow funds accounts can be treated the same way after certification because no further election-related activity remains.²

Unverified contributions are not surplus funds. As such, unverified contributions must not be used to satisfy outstanding debts or other obligations or commingled with surplus funds. However, they may be returned to the contributor or donated to charity (i.e., an organization recognized by the Internal Revenue Service under 26 U.S.C. § 501(c)(3)). Within three days of the return (or donation) of unverified contributions, an affidavit must be submitted to OES as required by Article XI, § 1(b)(13) (b) (13) of the *Rules*.

Surplus funds cannot be used for any kind of personal expenses (e.g., personal expenses of a candidate of a candidate’s family). Surplus funds may be used for any other, lawful purpose. Slates, candidates and independent committees may donate surplus funds to a non-profit charitable organization recognized under § 501(c)(3) of the Internal Revenue Code or towards another IBT election if such a contribution is consistent with the rules of that election. The terminal disbursement of funds must be disclosed on the final CCER.

² If part of the election results are not certified and a campaign wishes to use campaign funds in connection with any election activity that may continue, Article XI and all other relevant provisions of the *Rules* would continue to govern the use of the funds.

**MEMORANDUM ON THE
CONCLUSION OF CAMPAIGN FINANCE REPORTING –
2010-2011 IBT INTERNATIONAL OFFICER ELECTION**

DECEMBER 19, 2011

PAGE 3

IV. REQUIRED RECORD KEEPING

Candidates, slates and independent committees must keep adequate records of contributions and expenditures until further notice by OES. The Election Supervisor retains the right to request documentation and review reports for continuing violations, including but not limited to checks, for members who have exceeded the contribution limit, improper contributions and outstanding debts.

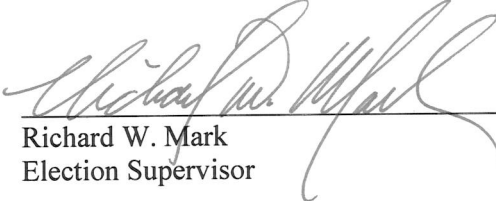
V. FOR FURTHER INFORMATION

Questions about the final filing requirements may be directed to:

Frank McGuire,
Duff & Phelps (202) 879-5035

Paul Dever,
Office of the Election Supervisor (202) 429-8683

Dated: December 19, 2011
Washington, D.C.


Richard W. Mark
Election Supervisor