

**ELECTION APPEALS MASTER
FOR THE INTERNATIONAL BROTHERHOOD OF TEAMSTERS**

IN RE: BRAD SWANNIE

Protestor.

**2021 EAM 17
ISSUED: May 13, 2021
APPEAL OF ELECTION SUPERVISOR
PROTEST DECISION 2021 ESD 105
OES CASE NO. P-110-031621-CA**

Protest Decision 2021 ESD 105 (ESD 105), which addresses a pre-election protest filed by Brad Swannie, was issued on April 11, 2021 (OES Case No. P-110-031621-CA) by the Election Supervisor. The protest alleged that Lorrie Ward, the Secretary-Treasurer of Local Union 155, used union resources to support his candidacy in violation of the Rules for the 2020-2021 IBT International Union Delegate and Officer Election (the “Rules”).

On April 11th, the Election Supervisor denied the protest and found that Mr. Ward did not impermissibly use union staff to support his candidacy nor did he improperly campaign during a union membership meeting. On April 29, 2021, Mr. Swannie appealed the decision. On April 30, 2021, by Notice of Hearing, the Election Appeals Master scheduled a telephonic hearing for May 5, 2021. On May 5th, the Office of Election Supervisor submitted supplemental argument in support of its position.

A telephonic hearing was held on May 5, 2021. The following individuals attended the hearing: Jeffrey J. Ellison, Esq., and Jack Sullens on behalf of the Office of the Election Supervisor; Lorrie Ward, on behalf of Local Union 155; and Brad Swannie on behalf of himself.

Background

Mr. Swannie was a delegate candidate in Local Union 155's delegates and alternate delegates election. On March 10, 2021, ballots for Local 155's were mailed to its members. On March 8th and March 12th, pursuant to Article VII, Section 7(a)(4) of the Rules, Mr. Swannie had employees of the local distribute campaign materials to members by electronic mail on his behalf.

On Sunday, March 14, 2021, Local 155 held a general membership meeting via Zoom where Mr. Ward, the local's Principal Officer, was scheduled to provide an update to the members regarding union business. Employees of the local were present in the union office to prepare for the meeting. Before the membership meeting started that day, Mr. Ward – an independent delegate candidate who opposed Mr. Swannie – had employees of the union distribute his campaign material to the members by email. Other delegate candidates distributed their campaign material in a similar fashion on March 15th.

On March 16th, Mr. Swannie timely filed a pre-election protest with the Election Supervisor and claimed, among other things, that Mr. Ward was not permitted to have union employees email campaign literature to the members on a Sunday when the office was normally closed. Mr. Swannie argued that distributing campaign email on a Sunday gave Mr. Ward an unfair advantage because none of the other delegate candidates had access to the union's office during non-business hours.

On April 7, 2021, while Mr. Swannie's protest was still being considered by the Election Supervisor, the local tallied the ballots. Mr. Swannie lost to Mr. Ward. On April 11th, the Election Supervisor issued its decision in ESD 105 and denied Mr. Swannie's protest. On April 14th, Mr. Swannie discovered the Election Supervisor's decision in his spam email inbox, but did not file an appeal until April 29th.

Decision of the Election Appeals Master

Pursuant to Article XIII, Section 2(i) of the Rules, a protestor that is aggrieved by the determination of the Election Supervisor may, within two (2) working days of receipt of the decision, appeal the decision to the Election Appeals Master. *See* Article XIII, Section 2(i). Here, Mr. Swannie filed his appeal well after this deadline. While the two-day time limit to file an appeal is often strictly applied, there may be extenuating circumstances that would warrant tolling or extending this deadline should a protestor file an untimely appeal. Based on the facts presented here, however, there are no such circumstances.

Even though the Election Supervisor's determination was issued on April 11th, Mr. Swannie did not become aware of it until April 14th because the decision was inadvertently sent to his spam email folder. As such, I find that Mr. Swannie was required to appeal the decision by April 16th. The appeal, however, was filed 13 days later on April 29th. Mr. Swannie claims that his appeal should nevertheless be heard because the protest decision took an inordinate amount of time to be issued and was filed after the election results were counted. This is not a

reasonable explanation that would warrant extending the two-day deadline. Accordingly, Mr. Swannie's appeal is DENIED pursuant to Article XIII, Section 2(i).

SO ORDERED,

A handwritten signature in cursive script that reads "Barbara S. Jones". The signature is written in black ink on a white background.

Hon. Barbara S. Jones (Ret.)
Election Appeals Master

DATED: May 13, 2021

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