

OFFICE OF THE ELECTION SUPERVISOR
for the
INTERNATIONAL BROTHERHOOD OF TEAMSTERS

IN RE: BRAD SWANNIE,)	Protest Decision 2021 ESD 105
)	Issued: April 11, 2021
Protestor.)	OES Case No. P-110-031621-CA
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Brad Swannie, member of Local Union 155, filed a pre-election protest pursuant to Article XIII, Section 2(b) of the Rules for the 2020-2021 IBT International Union Delegate and Officer Election (“Rules”). The protest alleged that Lorrie Ward used union resources to support his candidacy, in violation of the Rules.

Election Supervisor representative Jack Sullens investigated this protest.

Findings of Fact and Analysis

Local Union 155 is entitled to elect 2 delegates and 5 alternate delegates to the IBT convention. Protestor Swannie was the lead delegate candidate on a full slate of candidates named the Swannie Blue 155 United slate. That slate competed against independent candidates, 4 for delegate and 5 for alternate delegate. Respondent Ward, the local union’s principal officer, was an independent candidate for delegate.

Ballots were mailed March 10, 2021 and counted April 7. During the electoral period, candidates were accorded rights under Article VII, Section 7(a)(4) to distribute their campaign material to the local union membership by email.

The local union conducted a general membership meeting at 10:00 a.m. on Sunday, March 14, 2021 via Zoom. That morning, before the Zoom meeting convened, Ward’s campaign material was emailed to local union members, arriving at approximately 9:30 a.m. The protestor alleged that this distribution, coming on a Sunday, impermissibly used union staff to work on a weekend day. In addition, the protestor alleged that the timing of Ward’s distribution, just before the membership meeting, had the tendency to highlight his message because it arrived in members’ inboxes as they were logging into the Zoom meeting.

In response to the protest, Ward told our investigator he was involved in labor-management negotiations nearly non-stop over the previous 13 days and had not had the opportunity other candidates had to prepare and send campaign material. He stated that he prepared his campaign material late on Saturday, March 13. Per the procedure accorded to all candidates, he gave his material to union office staff for distribution. Even though the general membership meeting is conducted by Zoom, the routine of union office staff was to come to the office to assist members who call in because they have trouble connecting to the meeting. This routine was followed on Sunday, March 14. Ward said that while staff was waiting for the Zoom meeting to start that day, it sent Ward’s campaign email to the local union list.

Gayle Antoshchuk, Local Union 155’s office manager, told our investigator that she was in the office on Sunday, March 14, per usual practice, to assist members who have difficulty with the Zoom log-in. While she was waiting, Ward gave her his campaign email, and she sent it to the

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membership list. She said that Swannie's campaign literature, like Ward's, was sent to the membership the same day she received it from the candidate.

The protestor alleged that campaign literature could permissibly be emailed to the membership only during union office hours, which are Monday through Friday, 8:30 a.m. to 4:30 p.m. No policy substantiates the protestor's allegation, however. We find that the transmission of campaign emails by union office staff was done on a non-discriminatory basis, with no favor accorded to one candidate over another. Accordingly, we DENY this aspect of the protest.

The protest's second allegation was that Ward "promoted his candidacy and, by association, others he is supporting and named in his campaign literature, during the live broadcast with the membership." Specifically, protestor Swannie alleged that reference was made during the meeting to a video, first posted to YouTube 6 years ago, that disparaged certain members of the local union executive board. The video had resurfaced in the 2018 officers election and had come up again in the current delegates and alternate delegates election. The video was not campaign material in the pending election. At approximately 11:45 a.m., just short of 2 hours into the membership meeting, Don Emond posted in the Zoom chat feature a question for principal officer Ward: "Lorrie, can you address the YouTube bullying?" The protest alleged that Ward's oral response, which was not recorded, constituted campaigning during the meeting.

Our investigator canvassed a number of witnesses to determine what Ward said. Included on this list were protestor Swannie, Mark Angus, a slate member with Swannie, Barrie Poirier, a supporter of the Swannie slate, Emond (who posed the question in the chat function), respondent Ward, officer manager Antoshchuk, and several other witnesses. The recollection each witness had of Ward's response during the meeting – and specifically whether he referred to candidates in the pending election by name – tended to fall according to partisan lines. Thus, Swannie claimed that Ward "took that opportunity to declare the videos to be bullying and harassment;" he further claimed that Ward blamed Swannie and Angus by name. Poirier said only that he believed Ward mentioned Swannie. In contrast, Angus, aligned with Swannie, told our investigator he could not recall if Ward mentioned Swannie or him in his response.

Ward told our investigator that his reply to the chat question was that the video was "disgusting" but that the meeting was "not the place to discuss the video." Ward denied that he referred to Swannie, Swannie's slate or any member on the slate. Office manager Antoshchuk told our investigator that Ward's reply was very short, did not mention any member's name, called the video "disgusting," and said further that the meeting was not the place to discuss it. Emond told our investigator that he recalled Ward's response was that the video was "distasteful" but that he did not want to get into it during the meeting.

Ten other attendees our investigator interviewed, chosen at random, either denied that Ward mentioned any name in response to Emond's question or expressed doubt that he did, stating that if a name had been mentioned, the witness would have recalled it.

No witness, including Swannie and Poirier, claimed that Ward's response linked the video to any member's candidacy in the local union's delegates and alternate delegates election or otherwise referred to that election.

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Swannie's allegation is that Ward used the response to the question about the video as an opportunity to campaign during the membership meeting. Article VII, Section 5 of the Rules permits campaigning during membership meetings only when the union gives advance notice to all candidates that campaigning will be permitted and draws lots as to the order in which candidates or their representatives may appear. On the facts presented, we find no violation of this provision. We find that Ward's response to the question Emond posed in the chat function did not attack any candidate, did not refer to the delegates and alternate delegates election, and did not respond to campaign material. Accordingly, he did not violate Article VII, Section 5 with his response.

For the foregoing reasons, we DENY this protest.

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. Any party requesting a hearing must comply with the requirements of Article XIII, Section 2(i). All parties are reminded that, absent extraordinary circumstances, no party may rely in any such appeal upon evidence that was not presented to the Office of the Election Supervisor. Requests for a hearing shall be made in writing, shall specify the basis for the appeal, and shall be served upon:

Barbara Jones
Election Appeals Master
IBTappealsmaster@bracewell.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, all within the time prescribed above. Service may be accomplished by email, using the "reply all" function on the email by which the party received this decision. A copy of the protest must accompany the request for hearing.

Richard W. Mark
Election Supervisor

cc: Barbara Jones
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DISTRIBUTION LIST (BY EMAIL UNLESS NOTED):

Bradley T. Raymond, General Counsel
International Brotherhood of Teamsters
braymond@teamster.org

Edward Gleason
egleason@gleasonlawdc.com

Patrick Szymanski
szymanski@me.com

Will Bloom
wbloom@dsgchicago.com

Tom Geoghegan
tgeoghegan@dsgchicago.com

Rob Colone
rmcolone@hotmail.com

Barbara Harvey
blmharvey@sbcglobal.net

Kevin Moore
Mooregp2021@gmail.com

F.C. "Chris" Silvera
fitzverity@aol.com

Fred Zuckerman
fredzuckerman@aol.com

Ken Paff
Teamsters for a Democratic Union
ken@tdu.org

Brad Swannie
bswannie@shaw.ca

Lorrie Ward
c/o Teamsters Local Union 155
team155@teamsters155.org

Jack Sullens
jsullens@ibtvote.org

Jeffrey Ellison
EllisonEsq@gmail.com