

**OFFICE OF THE ELECTION SUPERVISOR**  
**for the**  
**INTERNATIONAL BROTHERHOOD OF TEAMSTERS**

<b>IN RE: SPENCER HOGUE,</b>	)	Protest Decision 2021 ESD 63
	)	Issued: February 24, 2021
<b>Protestor.</b>	)	OES Case No. P-077-021421-GP
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Spencer Hogue, member, principal officer, and delegate candidate in Local Union 222, 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 Olivia Harr and Dale Varney violated the Rules by making false campaign statements.

Election Supervisor representative Jim Devine investigated this protest.

**Findings of Fact and Analysis**

Local Union 222 will elect five delegates and four alternate delegates to the IBT convention. Two slates are contesting the election. The 222 for OZ slate is managed by Varney; Harr is a delegate candidate on that slate, which consists of rank-and-file members. The Teamsters United for Power slate is comprised of Hogue, other officers and business agents of the local union, and rank-and-file members.

The statements at issue in this case arose from the request Local Union 222 member Anthony Winters made to OES, in September 2020, for verification of his eligibility for nomination as delegate or alternate delegate. Winters was allied with what would become the 222 for OZ slate. OES determined that Winters was ineligible because, as a cash dues payer, he did not pay his January 2020 dues until February, causing an interruption in the continuous good standing required to be eligible for nomination. Winters filed a protest of that determination, and the Election Supervisor denied the protest for the same reason. *Eligibility of Winters*, 2020 ESD 25 (October 4, 2020). Winters appealed, and the Election Appeals Master affirmed the Election Supervisor’s decision that Winters was ineligible for nomination. 2020 EAM 5 (October 15, 2020).

Winters’ argument, pressed to the Election Supervisor and later on appeal, was that the local union had an obligation to notify him that he was late with his dues in sufficient time to permit him to make timely payment. Winters contended that, had Local Union 222 given him such notice, he could have paid the dues in time and thereby preserved his eligibility. This argument was without merit and was rejected for two reasons. First, the IBT constitution places the obligation of timely payment by cash dues payers on those members directly, giving them until the last business day of the month to pay their dues and thereby maintain good standing. Second, because cash dues payers have the entire month to pay their dues and have such payment deemed timely, notice of the type Winters sought could not come until after the last date he could make timely payment had passed. As such, the notice of delinquency Winters argued the local union had failed to give him would not come until after it was too late to pay the dues timely.

On October 6, 2020, after the Election Supervisor’s decision on Winters’ protest but before the appeal hearing had been held, Local Union 222 held its regular monthly membership meeting.

At the meeting, Olivia Harr, who since that time has been nominated for delegate on the 222 for OZ slate, asked principal officer Spencer Hogue the following: “Mr. Chair, I call a point of question: I would like to know what the process is for self-paying and dues check-off members when they become delinquent.” Harr surreptitiously recorded the audio of her question and Hogue’s answer. Hogue responded by referring Harr to the Office of the Election Supervisor.

Nathan Romans, a college friend of Harr employed elsewhere in the country, added edits of Harr’s audio to graphics and music and produced a video of 2 minutes and 17 seconds that was posted to the Facebook page of the 222 for OZ slate on February 12, 2021.<sup>1</sup> The video commenced with two slides that read as follows:

The transcript from this  
recording was sent to an elections  
supervisor.

Upon review, that supervisor decided  
to personally monitor the integrity of  
our election.

Referring to this video, protestor Hogue argued that the 222 for OZ slate “[p]osted false claims to their social media sites claiming the election supervisor’s involvement in Local 222’s delegate election was due to their protests and information provided to the OES by their slate.” The protest further alleged that the claim by the 222 for OZ slate that the Election Supervisor sided with that slate is false and interferes with a free and fair election.

The Office of Election Supervisor has supervised Local Union 222’s planning for and conducting its delegates and alternate delegates election, as OES does for all local unions within the IBT. Among the election protests filed to date in the 2020-2021 IBT International Union Officer Election, the Election Supervisor has decided several from Local Union 222. Three of the four protests filed by members or allies of the 222 for OZ slate that have been decided so far have been denied. Thus, Harr’s protest claiming that local union leadership failed to post required notices was denied on the merits. *Harr*, 2020 ESD 22 (October 3, 2020). Winters’ protest seeking to reverse the determination that he was ineligible for nomination was denied on the merits. *Eligibility of Winters, supra*. Finally, Varney and Harr’s protest asserting that a local union business agent violated the Rules by attempting to buy their burritos was denied on the merits. *Varney & Harr*, 2021 ESD 62 (February 23, 2021). Only one protest filed by a member of the 222 for OZ slate was granted. In that case, we decided an issue of first impression that a check-off dues payer who changes jobs during the eligibility period may rely on the check-off authorization he signed with the first employer for payment of dues by the second employer. *Eligibility of Malungahu*, 2020 ESD 24 (October 5, 2020).

Not counting the instant protest, one protest filed by Hogue was granted and a remedy was imposed against the 222 for OZ slate. *Hogue*, 2021 ESD 61 (February 23, 2021).

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<sup>1</sup> <https://www.facebook.com/114377437074226/videos/337731830837001>. The video was posted to the 222 for OZ Instagram account the same date.

It is well established that the Election Supervisor does not regulate the content of campaign material. *Yolland*, P660 (April 3, 1996); *see also* Rules, Article VII, Section 10(c) (regarding candidate literature published in Teamster Magazine, the Election Supervisor “may not regulate or alter the content of any candidate’s or slate’s material...”). The fact that campaign statements are false or even defamatory does not remove them from the protection of the Rules. *Braxton*, P304 (May 21, 1991); *Hoffa 2006*, 2005 ESD 25 (November 8, 2005); *Jackson & Trupiano*, 2006 ESD 24 (April 17, 2006); *Kenny*, 2006 ESD 190 (May 17, 2006); and *Reyes*, 2010 ESD 14 (August 4, 2010). The Election Supervisor’s role is not to police campaign content, even as here where a candidate or slate makes assertions about the Election Supervisor’s involvement in a local union delegates and alternate delegates election. Rather, the contest over claims and ideas is left to the competing candidates themselves, through the speech, debate, and give-and-take of the campaign.

Accordingly, we DENY the protest.<sup>2</sup>

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  
2021 ESD #

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<sup>2</sup> Although not raised explicitly in the protest, witnesses in the investigation also focused on whether Harr’s secret recording of a portion of the local union general membership meeting violated the Rules. Hogue asserted it violated the local union bylaws; Harr and Varney held to the opposite conclusion. The Election Supervisor is without authority to construe local union bylaws that are unrelated to his authority under the Rules. Therefore, he does not decide this issue.

*Hogue*, 2021 ESD 63  
February 24, 2021

**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

Spencer Hogue  
jjhogue@gmail.com

Dale Varney  
Dvarney3860@gmail.com

Olivia Harr  
Oford10@gmail.com

Teamsters Local Union 222  
Spencer Hogue, Secretary-Treasurer  
s.hogue@teamsterslocal222.org

Jim Devine  
jdevine@ibtvote.org

Jeffrey Ellison  
EllisonEsq@gmail.com