

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

**IN RE: JAVIER SANCHEZ,** ) Protest Decision 2021 ESD 86  
 ) Issued: March 16, 2021  
**Protestor.** ) OES Case No. P-104-031121-FW  
\_\_\_\_\_ )

Javier Sanchez, member of Local Union 542, 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 campaign stickers were affixed to employer property in violation of the Rules.

Election Supervisor representative Jim Devine investigated this protest.

**Findings of Fact and Analysis**

Local Union 542 will elect 10 delegates and 6 alternate delegates to the IBT convention. The Teamsters 542 Members First slate, consisting of local union officials and rank-and-file members, is competing against the Members for Members 542 slate, comprised of rank-and-file members.

Protestor Sanchez, a delegate candidate on the Members for Members 542 slate, protested that stickers advocating for the Teamsters 542 Members First slate were affixed to lockers in the employees-only breakroom of the Costco store on Morena Blvd in San Diego CA. He first observed them when he reported for work there on Wednesday, March 10, 2021. Photos the protestor supplied verified that stickers were affixed to at least 10 lockers in that area. Each sticker was 2-color process, goldenrod over deep red, die-cut in the irregular shape of the IBT horses-and-wheel logo, measuring approximately 4 inches high by 2½ inches wide, and bearing the inscription “Teamsters 542 Members First Slate.”

Investigation showed that Edmond Swank, candidate for alternate delegate on the Teamsters 542 Members First slate and a shop steward at Costco, distributed the stickers when campaigning in the employee parking lot at the Costco-Morena Blvd store where he is employed. Although he distributed the stickers to members as they were heading into the store, Swank claimed to our investigator that he asked members not to use them in the building. He acknowledged that many members placed the stickers on their lockers in the employee break area but argued that he could not control what members did with the stickers. Swank stated further that he did nothing to remove the stickers from the lockers, stating that members would get upset if he “messed with” their lockers.

An assistant warehouse manager for Costco told our investigator that stickers on employee lockers violated Costco standards. He stated that he instructed maintenance staff to remove the stickers, which was accomplished on Friday, March 12, 2021.

We have held repeatedly that posting campaign material on employer property violates the Rules. *Teamster Power*, 2020 ESD 3 (July 3, 2020); *Hoffa-Hall 2016*, 2016 ESD 64 (January 8, 2016). Partisan stickers on employer assets and fixtures have the effect of causing the employer

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to make an improper campaign contribution and giving the false impression of an employer endorsement. The Rules hold candidates and slates strictly liable for receiving the impermissible employer contribution. Article XI, Section 1(b)(13).

Swank, a candidate, acted irresponsibly by distributing stickers to members *on their way into* the workplace. Although he claimed to our investigator that he hoped members would put the stickers on their cars, they were *walking away from* their cars when he gave them the stickers. Not only was it foreseeable to Swank that members would put the stickers on their lockers, it is difficult to conceive that individual stickers carried into a workplace would be put aside for use elsewhere. For this reason, Swank violated the Rules. He compounded the violation by failing to take prompt action to remove the stickers himself, once he saw they had been put on the lockers. His failure to accept responsibility for his action compounded the strict liability the Rules already place on him and his slate.

Swank is a member of a slate of candidates. His Rules violation is attributable to the slate.

Accordingly, we GRANT the protest.

### **Remedy**

When the Election Supervisor determines that the *Rules* have been violated, he “may take whatever remedial action is deemed appropriate.” Article XIII, Section 4. In fashioning the appropriate remedy, the Election Supervisor views the nature and seriousness of the violation as well as its potential for interfering with the election process. “The Election Supervisor’s discretion in fashioning an appropriate remedy is broad and is entitled to deference.” *Hailstone & Martinez*, 10 EAM 7 (September 14, 2010).

We order Edmond Swank and the Teamsters 542 Members First slate to cease and desist from distributing campaign stickers where it is foreseeable they will be affixed to employer assets. Violation of this order will risk more severe remedial action.

We order Local Union 542 to post the notice attached to this decision on all union bulletin boards at the Costco, located at 4605 Morena Blvd, San Diego CA, and maintain that posting until April 14, 2021, the date ballots are tallied in the local union delegates and alternate delegates election. The notice must be posted within two days of the date this decision issues. Within two days following the posting, the local union must submit a declaration of compliance to the OES. The purpose of the notice posting is to educate the membership of what the Rules require and that Swank and the Teamsters 542 Members slate have violated them.

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

*Sanchez*, 2021 ESD 86  
March 16, 2021

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 86*

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**DISTRIBUTION LIST (BY EMAIL UNLESS NOTED):**

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Richard W. Mark  
Election Supervisor

## NOTICE OF ELECTION RULES VIOLATION

**TO: All members of Local Union 542 employed at Costco, 4605 Morena Blvd, San Diego**

Candidates on two slates are competing for election as delegates and alternate delegates from Teamsters Local Union 542 to the 30th International Convention. The Election Supervisor has found that Edmond Swank and the Teamsters 542 Members Slate violated the Election Rules by distributing campaign stickers that members placed on their lockers in the Costco employee breakroom. By displaying stickers on employer property, the campaign improperly involved the employer in the election.

The Election Supervisor will not tolerate violation of the Rules. The Election Supervisor has ordered Swank and his slate to cease and desist from violating the Election Rules. The Election Supervisor has ordered Local Union 542 to post this notice on all union bulletin boards at the Costco, located at 4605 Morena Blvd, San Diego CA.

The Election Supervisor has issued this decision in *Vasquez*, 2021 ESD 86 (March 16, 2021). You may read this decision at <https://www.ibtvote.org/Protest-Decisions/esd2020/2021esd086>.

Any protest you have regarding your rights under the Election Rules or any conduct by any person or entity that violates the Rules should be filed with Richard W. Mark, 1990 M Street, N.W., Suite 650, Washington, D.C. 20036, telephone: 844-429-8683, fax: 202-925-8922, email: [electionsupervisor@ibtvote.org](mailto:electionsupervisor@ibtvote.org).

***This notice must remain posted through and including April 14, 2021 and must not be damaged, defaced, or covered up.***