

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

IN RE: LUCIO REYES and)	Protest Decision 2010 ESD 9
JUANLUCIO REYES,)	Issued: July 27, 2010
)	OES Case Nos. P-013-072010-FW &
Protestors.)	P-014-072010-FW
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Lucio Reyes, principal officer of Local Union 601 and candidate for International office, filed a pre-election protest pursuant to Article XIII, Section 2(b) of the Rules for the 2010-2011 IBT International Union Delegate and Officer Election (“*Rules*”). The protest alleged that Rome Aloise and Ron Horner used union resources to support the Hoffa campaign.

Juanlucio Reyes, member and business agent of Local Union 601, filed a separate pre-election protest alleging that Rome Aloise and Ormar Locklear used union resources to support the Hoffa campaign.

These protests were consolidated for investigation, and Election Supervisor representatives Chris Mrak, Rochelle Goffe, and Michael J. Miller investigated them.

Findings of Fact and Analysis

Lucio Reyes made the following allegations:

- On February 25, 2010 at 6:07 p.m., Rome Aloise, IBT western region vice-president and candidate for election to that position, emailed Reyes on Reyes’ business email account to discuss the coming campaign for International office and to invite Reyes to a campaign meeting on February 27.
- On May 17, 2010 during business hours, several boxes containing Hoffa campaign t-shirts were delivered to the office of Local Union 601. They were picked up about 10 minutes later; Reyes helped carry the boxes out of the office.
- On May 24 and 25, 2010 at the Teamsters Joint Council 7 annual seminar, Aloise introduced General President James Hoffa, who spoke to the gathering. Although the speech did not address the coming campaign or Hoffa’s candidacy for re-election, Hoffa wore a campaign badge on his lapel while at the podium. At the conclusion of the meeting but before the final gavel, a cocktail reception in Hoffa’s honor was announced, although Reyes could not confirm that the reception was designated as a campaign event by the person announcing it.
- On May 25, 2010, at 1:08 p.m. and again at 6:21 p.m., the Hoffa campaign faxed to the business fax of Local Union 601 materials to be used in soliciting signatures on accreditation petitions.

Juanlucio Reyes made the following allegations:

- On May 17, 2010, between 10 a.m. and 11 a.m., he received a phone call from Ormar Locklear, Joint Council 7 organizer, saying that he would be stopping by to drop off

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boxes of shirts for “Doug” to pick up. Locklear arrived a short time later and delivered 4 large boxes of t-shirts, giving Juanlucio Reyes one of the shirts, which bore a Hoffa campaign message. About 10 minutes later, “Doug” arrived and took the boxes; Juanlucio assisted in taking the boxes to Doug’s vehicle.

- On May 24, 2010 during the Joint Council 7 annual meeting, Aloise announced a Hoffa campaign cocktail fundraiser.

Both protests are dated July 14, 2010 but were not filed until July 20.

Article XIII, Section 2(b) of the *Rules* requires that pre-election protests “be filed within two (2) working days of the day when the protestor becomes aware or reasonably should have become aware of the action protested or such protests shall be waived.” For activity alleged to have occurred before the effective date of the *Rules*, Article XIII, Section 2(a) requires that a protest be filed within 30 days of the date the *Rules* were issued, “or such protests shall be waived.” The *Rules*’ Timetable of Events states that June 3, 2010 was the deadline for filing protests that alleged violations occurring before the *Rules* became effective or during the first 28 days the *Rules* were in effect.

These time limits have oft been said to be prudential, not jurisdictional. *See, e.g., Halberg*, 2007 ESD 402 (May 2, 2007); *Gleason*, 2006 ESD 370 (November 9, 2006), *aff’d*, 06 EAM 79 (December 7, 2006); *Leedham Slate*, 2001 EAD 394 (June 23, 2001), *aff’d*, 01 EAM (July 23, 2001); *Aksamit*, 2001 EAD 213 (March 5, 2001), *aff’d*, 01 EAM 47 (March 16, 2001); *Ruscigno*, P144 (October 4, 1995), *aff’d*, 95 EAM 25 (October 18, 1995). Despite the prudential nature of the limitations period, we have denied protests as untimely filed where no justification exists for the delayed filing and where prudential considerations do not warrant a waiver of the limit. *White*, 2006 ESD 104 (February 27, 2006), *aff’d*, 06 EAM 15 (March 6, 2006); *Milligan*, 2001 EAD 156 (February 12, 2001).

Each protest was untimely filed by 47 days. We inquired of each protestor the reasons for not filing timely. Lucio Reyes told our investigators that he did not consider filing the instant protest until protest cases P-008 and P-011 were filed against him, on July 12 and 14, respectively. Juanlucio Reyes, who is the son of and campaign manager for Lucio Reyes, told our investigator he was unaware of the *Rules*’ time limits for filing protests.

We previously found the May 25 faxing by the Hoffa campaign to violate the *Rules* and ordered a remedy. The Election Appeals Master affirmed. *Gegare*, 2010 ESD 2 (May 31, 2010), *aff’d*, 10 EAM 1 (June 14, 2010).

We find no substantial basis for waiving the protest time limits for the remaining allegations. Accordingly, we DENY these protests as untimely filed.

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. The parties are reminded that, absent extraordinary circumstances, no party may rely upon evidence that was not presented to the Office of the Election Supervisor in any such appeal. Requests for a hearing shall be made in writing, shall specify the basis for the appeal, and shall be served upon:

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Kenneth Conboy
Election Appeals Master
Latham & Watkins
885 Third Avenue, Suite 1000
New York, NY 10022
Fax: (212) 751-4864

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, 1801 K Street, N.W., Suite 421 L, Washington, D.C. 20006, all within the time prescribed above. A copy of the protest must accompany the request for hearing.

Richard W. Mark
Election Supervisor

cc: Kenneth Conboy
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