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October 30, 2015

## **DECISION**

Protest I-13-12 (Carrubba)  
Eligibility

By email dated October 28, 2015, Anthony Carrubba appealed the Elections Committee October 27, 2015 determination that he was not eligible to run for office because he did not have 12 months of continuous good standing because he did not pay off his dues arrearage until October 16, 2014. Thus, he was not in continuous good standing from September 21, 2014 until September 21, 2015.

The facts are undisputed. The Protester did not pay dues from June 2007 until November 2008, when he went back to work and back on dues checkoff. He made a payment of \$100 on October toward the outstanding delinquency. He signed a dues checkoff authorization on February 24, 2014 authorizing the TA to take out double dues, but the Transit Authority did not begin checking off his additional dues until June 14, 2014. By October, 2014, he still was in arrears \$118.54 and he paid that by check on October 16, 2014.

The Protester asserts that had the Transit Authority started his checkoff sooner, he would have paid off his dues earlier and would have been eligible to run. He cites the TWU Constitution Article XIII(3):

Membership dues are due and payable on the first working day in each calendar month. Any member who fails to pay his/her dues for a particular month on or before the fifteenth day of each month shall be in bad standing. Any member to whom dues check off is available and who signs and delivers to the Local Financial Secretary Treasurer, or other authorized person, a check off authorization shall be considered in good standing regardless of when in a particular month the employer deducts his/her dues for such month or when the

employer pays his/her dues over to the union. Where for any reason the dues of a member who pays his/her dues by checkoff authorization are not checked off by the employer for any month or months, said member shall remain in good standing until thirty days after the mailing to him/her by registered mail of a notice informing him/her of his/her indebtedness. Failure to pay within said thirty days period shall cause said member to become in bad standing.

I find that the Protester knew that he was in bad standing and did not take timely action to pay his dues. He did not ask the Transit Authority to take out double dues until February 24, 2014. This authorization did not convert him from bad standing to good standing. At most, it gave him the presumption of having paid all dues he had authorized the company to deduct. I do not need to determine what a reasonable processing time for a checkoff authorization would be because even if the company had begun taking out double dues in March, Mr. Carrubba would still not have been paid off by September 21. Further, he knew that double dues were not deducted from his check in March, April and May and yet did not take that money and apply it to his back dues. He has presented no reason that he could not have made his back dues payment on September 20, rather than October 16. Had he done so, he would have been eligible to run.

The appeal is denied.

In accordance with the International Constitution and the Election Rules, any interested party unsatisfied with this determination may appeal to the Transport Workers Union of America Committee on Appeals. Any appeal shall be in writing and shall be filed in accordance with the procedure set forth in Article IV(6)(I)(1) of the Election Rules and Articles XV and XXII of the International Constitution for the appeal to the International from decisions of Local Unions.

/s/ Barbara C. Deinhardt

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By email:  
Anthony Carrubba  
Joe Campbell  
Vincent O'Hara  
Arthur Schwartz, Esq.  
Elections Committee