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DECISION

Protest I-3-22 (misc.)

By email dated September 29, 2022, Rosalia Pannizzo filed a protest with a series of objections to actions of the Election Committee and others. Most of the objections are untimely. She protests an incident that took place on August 9; a rule that was published on August 25 and already ruled on by the Neutral Monitor; the initial decision of the Election Committee that she was in bad standing and not able to run, a decision that was later reversed; actions that took place during the petitioning period that ended on September 2; petition signatures of Sean Battaglia, which were already ruled on by the Neutral Monitor; and a miscommunication or misinformation about her payment of Union dues, which has since been resolved. I find that all of these protests are untimely and/or moot.

She also protests the change in address supplied to candidates and observers for the printer. She was initially told that the printing would be done and could be observed at 400 Gotham Parkway in Carlstadt, NJ. Around noon on the first day of printing, the Election Committee Chair Aquilino Castro called the Protester and left her a message that there was a change in the address. At 1:46 that afternoon, candidates were notified by email that that address was changed to 505 Washington Avenue, Carlstadt. The Protester called Mr. Castro back at around 2:00 and he explained everything to her about the process. She informed him that she was sick and would not be observing that day. She did not mention anything about having an observer there that day. I note that the protest is untimely. Further, there is no evidence that the Protester or her observer in fact appeared at the initial address. I

am advised that the confusion was caused by an error. The address originally communicated to the parties was the H&H old address. They had moved to the new address. The new address was a three- minute drive or a 17-minute walk from the old address. The observer, if in fact she arrived at the incorrect address, could easily have called the Election Committee and made it over to the correct address very quickly. This part of the protest is denied both as untimely and on the merits.

In an email sent on September 30, the Protester states that she is “only protesting the incidents of September 28 and 29.” On September 28, the Protester saw that the address on the envelopes in which completed ballots are to be returned is different from the return address on the ballot packages to be mailed to the members. This is because if a ballot package is undeliverable, it is returned to the Election Committee directly so that they can attempt to find a better address for the member and remail the ballot. The ballots, on the other hand, are delivered to a post office box that will not be opened by anyone until I as Neutral Monitor open the box on the morning of the count. I have the keys to the box in my possession. To the extent that these questions raised by the Protester are meant to be a Protest, it is denied.

The Protester raises concern about what she describes as a discrepancy between two postal receipts. One is the Electronic Confirmation Acceptance Notice issued by the USPS. This is a form that is generated after the Mail Agent, in this case H&H, inputs into the PostalOne electronic system the number of pieces of mail, the weight, and the postage for mail that is to be delivered. The form has to be presented when the mail is brought to the Post Office. The form makes clear that it was the electronic postage statement, not the mail, that was submitted on September 28. The form states that the mail must be brought no later than October 5 and the bar code scanned at the time of acceptance of the mail. It was in fact brought and the form presented to the USPS on September 29, as the subsequent receipt showed.

The Protester also alleges that her observer was denied the opportunity to observe the transfer of ballots from the printer to the post office. When the Protester

was present at H&H on September 27, the Election Committee representatives asked when it would work for her or her observer to watch the ballots leave the H&H facility. After leaving and making a phone call, the Protester said 11:00 AM.

The Election Committee representatives waited at the front of the facility until around 11:01 on September 29 and then went back into the warehouse. The statement of the Election Committee, with corroborating photographs, establishes that the seven trays of mail were transported by the H&H employee from the warehouse to the van beginning a few minutes after 11:00 AM on September 29 and were loaded on the van by 11:05. Contrary to the Protester's assertions, it was not necessary for the Election Committee representative to "inspect 2200 envelopes." The envelopes were already in the trays and on a dolly. All that was required was for the H&H Printing employee to push the dolly into the parking lot and lift the seven trays into the waiting van. Vincente Pagan for the Election Committee walked back to the front of the building and left at 11:07 following behind the H&H van. He did not see Ms. Pannizzo's observer, Evangaline Byars, as he left. According to the H&H receptionist, Ms. Byars arrived at around 11:09 or 11:10. She was told that the van had just left. She became very upset. As soon as she left the premises, the H&H employee called Mr. Pagan at 11:11 to tell him what had happened. I find that Ms. Byars was given an opportunity to observe the loading of the ballots. While the Protester insists that Ms. Byars arrived at 11:00, I am persuaded by the evidence that she was a few minutes late and the loading had already taken place and the van had left. Further, as documented by the Election Committee photographs and video there was no impropriety in the handling of the ballots, which were touched only by the H&H employee.

The van then proceeded to Manhattan to the Post Office. The docking entrance for the main Post Office is at 341 9th Avenue. When the van arrived at 11:39, the driver gave the Electronic Confirmation Acceptance Notice to the USPS clerk, received a receipt, unloaded the trays, gave them to the clerk, and left at 11:42. The Election Committee presented a video of the entire transaction. Unfortunately, due to an

Election Committee error, the candidates and observers were directed to the main Post Office entrance at 421 8th Avenue. The observer arrived at the docking entrance at 11:55, by which time the van had already left. While it was a regrettable error, there is no evidence that the Protester was disadvantaged thereby. It is unclear whether the observer could have made it to the docking area by 11:42 when the driver left, even had she had the correct address, since she left the printer at least four minutes after the van. Further, the Election Committee video of what happened showed no impropriety. The Election Committee representatives did not touch any ballots. Only the H&H employee and the USPS employee touched the trays of ballots. I find that no remedy is needed for this error.

I note that I requested an opportunity to interview Ms. Byars. She refused to speak to me on the telephone, insisting that she would only communicate with me via Zoom or Microsoft Teams. I do not conduct my investigations in that manner, as I informed her.

The protest 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(B)(9) of the Election Rules and Article XXII of the International Constitution for the appeal to the International from decisions of Local Unions.



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