

**Barbara C. Deinhardt, Esq.  
Neutral Monitor  
52 Third Street  
Brooklyn, NY 11231  
917-763-0906  
718-855-2933 (fax)  
neutralmonitor@gmail.com**

November 19, 2015

## **DECISION**

Protest I-20-15 (Creegan)  
Arthur Schwartz

By email dated November 11, 2015, Thomas Creegan filed a protest alleging that Arthur Schwartz, Counsel to the Elections Committee, should be disqualified because he is employed as an attorney by Local 100 and because he is “the hired compensated attorney for Incumbent OA Div & Executive Bd candidate Tony Aiken. As a contractor or vendor of TWU Local 100 employed by the incumbents his involvement is most highly questionable if not downright unethical.” The Protester asks that Schwartz be removed as Counsel for the Elections Committee. On November 19, Mr. Creegan filed an additional protest over Schwartz's involvement in the disqualification process of Transport Workers United Slate Candidates Harry Joseph and Gary Germaine because they have brought suit against the Union and Arthur Schwartz is representing the Union on the opposing side of their suit.

First, I find that both protests are untimely. Mr. Schwartz was appointed as Counsel to the Elections Committee by the Executive Board in August, 2015. These protests were not filed until three months later. The qualification of Tony Aiken and the disqualifications of Joseph and Germaine were completed at least by the issuance of the Eligibility Report on October 21.

Further, I find no basis to remove Mr. Schwartz. As I held in a similar protest during the last election, in protest # TWUS-01-12, “I do not find that the fact that Schwartz is on the staff of the Union renders him unable to act in an impartial manner...If the protester detects a lack of impartiality in any decisions or actions of Schwartz or the

[Elections] Committee, he can of course file a protest about the actual decision or action, rather than over the potential for such impartial actions.”

As to the allegation related to Mr. Aiken, I note that Mr. Schwartz has served as an attorney for Local 100 for a number of years. In that capacity, he has represented many members of Local 100 in disciplinary and contract arbitrations, including Tony Aiken, as well as Joe Campbell, Nelson Rivera, Mike Staton, Maurice Jenkins, JP Patafio, Willie Rivera, Steve Downs, John Chiarello, and many more candidates on both slates. At Tom Creegan's request, the Union assigned Schwartz to the Proterter's brother Hugh's disciplinary arbitration. These assignments do not render Mr. Schwartz incapable of being objective in his representation of the Elections Committee.

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 V(6)(l)(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

Barbara C. Deinhardt  
Neutral Monitor

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