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November 16, 2015

## **DECISION**

Protest SUS-08-15  
Misappropriation of TWU  
name

By email dated November 14, 2015, John Samuelson, on behalf of the Stand United Slate, filed a protest alleging that the Transport Workers United Slate sent a campaign email on November 14 that failed to make clear that the email was being sent by the Transport Workers United **Slate**, as required by the Neutral Monitor's decision in SU-01-12. The email read as follows:

**From:** "[transportworkersunited.org](http://transportworkersunited.org)"  
<[proodos.products@gmail.com@email.benchmarkapps.com](mailto:proodos.products@gmail.com@email.benchmarkapps.com)>  
**Date:** November 14, 2015 at 4:36:40 PM EST  
**To:** xxxxxx  
**Subject:** A Message form [sic] Transport Workersd [sic] United  
**Reply-To:** [proodos.products@gmail.com](mailto:proodos.products@gmail.com)

## **Transport Workers United**

The text of the email was clearly campaign related. The Protester states that he is concerned that "Local 100 members will think Campbell's political emails (or other messages) are an official communication from our union, rather than an electoral campaign message." The Protester also objects to the TWUS email address—transportworkersunited.org--and requests that I instruct TWUS to cease from using the name "Transport Workers United" and the associated email/Internet designation, without specifically indicating and using the word "slate" and requests an order directing TWUS to use transportworkersunitedslate.org for its email address. The Protester also requests that the Elections Committee send a notice to all members advising them of the protest

and this decision, “in order to remedy any confusion the TWUS email may have created.”

TWUS responds that it is both a slate running for office in this election and an organization that functions as an independent voice for Local 100 members. Joe Campbell does not contest a requirement that all campaign material be labeled Transport Workers United Slate and that any e-blast sent from a list provided to the vendor chosen by the Local, and used by TWUS to campaign for candidates, will adhere to ruling, but objects to changing their email address, which they have had for years, and to placing the word "Slate" on any message to their email list that is not election-related.

In the decision in Protest #SUS-01-12, I held,

Having found that the name [Transport Workers United Slate] is not per se bad, I note that it is possible that the name of the slate or its initials could, in context, be unduly misleading and thus could violate the Election Rules. Under the Election Rules and federal law, union resources may not be used to support any candidate. Under federal law, this prohibition includes the use of union stationary and logo, as well as money, addresses, facilities, etc. In the case of *McLaughlin v. AFM*, 700 F.Supp. 726 (S.D.N.Y.1988), the union president wrote letters to the delegates on union stationary, with the union logo, endorsing a particular candidate in the election. In finding a violation, the court quoted from the decision in *Brennan v. Sindicato Empleados de Equipo Pesado, Construccion y Ramas Anexas de Puerto Rico*, 370 F.Supp. 872,878 (D.P.R. 1974), “Section 401(g) does not require an actual cash outlay to establish a violation. The ‘logos’ of the union, the credit and goodwill of the union, together with the time of the union’s Secretary, constitutes assets of a labor organization which cannot be used to support the candidacy of one running for union election.”

... Because the email address [transportworkersunited@gmail.org](mailto:transportworkersunited@gmail.org) has apparently caused some confusion, on my own authority, I direct that in future emails, the slate put Transport Workers United Slate (rather than just Transportworkersunited) in the “from” line or in the reference line or include the statement “The Transport Workers United Slate is an independent slate not endorsed by the Transport Workers Union” immediately below the caption before the text of the email.

I hold that, as directed in 2012, TWUS must, in **all** emails to the membership related to the election, including any emails supporting the TWU Slate or criticizing other slates or candidates, and not limited to those sent by a Local 100-selected vendor, follow the directions set forth above. A failure to do so could jeopardize the integrity of the election. If this procedure is followed, I find that any potential confusion will be

ameliorated and so I do not direct that TWUS change its email address. I do not have any authority over email messages that do not relate to the election. I decline to direct the Elections Committee to send a special email to the membership about this holding. All protest decisions are posted on the website and can be disseminated in any way anyone, or any slate, wishes.

Protest is granted in part and denied in part.

In accordance with the International Constitution and the Election Rules, any interested party unsatisfied with this determination may appeal to the Transit 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

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Neutral Monitor

By email:  
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Vincent O'Hara  
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Arthur Schwartz, Esq.  
Elections Committee