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DECISION

Protest TWUS-02-15
Nominating Petition Suppression at
Mother Clara Hale Depot

By email dated September 22, 2012, Joseph Campbell, on behalf of the Transport Workers United Slate, filed a protest alleging that the Depot Chairman at the Mother Clara Hale Depot threatened and intimidated a member of the TWU Slate and instructed members not to sign TWUS petitions.

According to witnesses for the Protester, on September 22, Diane Bonaccorsi, a member of the TWU Slate, came to the depot and proceeded to go to the lunch room/swing room to collect signatures. She and another person were collecting signatures at one table; representatives for the Stand United Slate were collecting signatures at another table. According to Bonaccorsi, she was telling people that they could sign both petitions, if they wanted. After a short time, Depot Chair Reynaldo Rios came to the swing room and told her that it was standard etiquette to announce herself before coming onto a property where she does not work. She said she didn't know that. Rios then turned to the person soliciting signature with her and told him that he didn't want the Bonaccorsi in his depot, that he was upset that he had brought a stranger into his (Rios's) house—after all he had done for him--and that he (Rios) wouldn't forget it. Then Rios began to tell members that they shouldn't sign TWUS petitions; they should only sign Stand United Slate petitions. When Bonaccorsi told him that this was a democratic process and he couldn't do that, Rios allegedly started yelling at her, saying that this was his house, his building, and he would do what he wants.

Rios denies the allegations and asserts that he had been told that Bonaccorsi and the other person were forcing people to sign the petitions and harassing them. He went to the swing room and just told her that proper etiquette was to first say hello to the depot chairman when entering a property. He also said that they couldn't harass people to sign. He claims that this is all he said.

Supplemental Rules, Paragraph 5(C) of the Election Rules provides that "[n]o member may campaign for her/himself or for any other candidate during time that is paid for by the Local Union or any employer." Paragraph 3 provides, "All Local Union members...retain the right to participate in campaign activities, including the right to openly support or oppose any candidate, to aid or campaign for any candidate, and to make personal campaign contributions."

Based on a review of the evidence, I credit the evidence that establishes that Rios, while on time paid for either by the Union or the Employer, attempted to prevent members from signing TWUS petitions. The Depot Chairman yields considerable power over the economic lives of the members in his/her depot, through work assignments and distribution of overtime. Thus they must be particularly careful not to exert any influence that could appear coercive. I direct that Rios cease and desist from this conduct in the future and that TWUS be given an hour to collect signatures at the Mother Clara Hale Depot swing room without Rios present and without SUS collecting signatures at the same time. The other remedies requested by the Protester are denied.

The protest is sustained 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 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:
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Arthur Schwartz, Esq.
Vincent O'Hara, Esq.
Elections Committee