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October 29, 2015

## **DECISION**

Protest TWUS-07-15  
Challenges to Eligibility Report

By email dated October 23, 2015, Joseph Campbell, on behalf of the Transport Workers United State, filed a challenge to the Eligibility Report issued by the Elections Committee. The Protester raised three objections:

1. The Protester alleges that certain signature on MaBSTOA Division 1 Petitions were fraudulent and challenges the Elections Committee determination that the Petitions were valid because the Protester could not identify anyone who denied actually signing the Petition.
2. The Protester challenges the eligibility of independent candidate Anthony Staley, who submitted 312 valid signatures for the position of Vice-President from Stations. According to the Protester, even though the Election Rules states that only 300 signatures are required for nomination to Stations Vice- President, the correct number is 330 and Staley would not be eligible.
3. The Protester requests the names of those Petition witnesses who were found to be in bad standing and their Petitions disregarded. The information was provided by the Elections Committee following receipt of the protest and the Protester then challenged the finding that Mike Capocci was in bad standing.

Upon investigation, I agree with the Protester that approximately 144 signatures on four different Petitions submitted by Stand United candidate Donald Yates appear to be fraudulent. Yates concedes that he signed these names. He claims that he asked for prior permission from about 90% of those whose names he signed. When he was having trouble finding some members at the work site or if he knew they were off work on

workers' compensation or sick leave, he started calling members whose support he thought he had and asking if he could sign their names. He did not sign the name of anyone who refused him permission. He acknowledges that what he did was wrong.

The integrity of the Petition process must be taken very seriously. It is inexcusable for Yates to have signed any member's name, even if they gave him permission and especially if he did not get their permission. The purpose of the Witness Statement is to certify that the witness collected signatures from the members whose names appear on the Petition. Yates falsified those Witness Statements. All 144 signatures are to be disregarded. However, I am reluctant to disqualify a candidate who has been nominated by the membership. Yates himself collected over 350 good signatures and his slate had many more than enough signatures to qualify it to be listed on the ballot, without counting the fraudulent signatures of Mr. Yates. I therefore decline to disqualify Donald Yates from running for office, but instead refer the matter to the Union to take whatever internal disciplinary action is appropriate for misconduct by an officer.

As to the objection about the number of signatures required for Stations Vice-President, I am bound to follow the number that is set forth in the Rules. The Rules were not amended and any change in the number was not posted on the Elections Committee website. There is no evidence that Mr. Staley was notified of any change in the number. It would not be fair to Mr. Staley, who reasonably relied on the number included in the Rules, to increase the number after the petitioning had closed and thereby disqualify him from running. This objection is denied.

As to the objection raised about Mike Capocci's good standing, I note that the Union has withdrawn its assertion that Mr. Capocci owes dues and is not in good standing. His Petitions will be counted and he will be permitted to run for Vice-Chair of MTA Bus Division. This objection is now moot.

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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Elections Committee