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AMENDED DECISION

Protest TWUS-11-15r
Improper use of Union resources

By email dated October 29, 2015, Carlos Clarke, on behalf of the Transport Workers United Slate, filed a protest alleging that the Stand United Slate used Union resources to support its campaign. In specific, the Protester alleges that Willie Rivera and Jimmy Manzella were campaigning during the pick at Grand Avenue Depot on October 27 by placing or permitting the placement of SUS stickers on pick boards, distributing SUS pens to members in the pick room and placing a large placard with Rivera's name and phone number in the pick room, also with SUS stickers on it

In support of his protest, the Protester provided pictures of the pick boards at Flatbush and Jackie Gleason Depots and a large sign with Willie River's contact information, also with SUS stickers on them.

According to the attorney for the Stand United Slate, Stand United denies distributing Slate pens during the pick and denies posting Stand United stickers on the pick boards. When Mr. Rivera saw the stickers, he asked maintenance to remove them. He had a dry erase board with his name and contact information so that members could call him if they had any questions about the pick. He says that as TAS Division Chair, he does this every year.

Supplemental Rules, Paragraph 5(C), of the Election Rules provides, "No candidate ...may campaign...during time that is paid for by...any employer. However, campaigning ...during paid vacation, paid lunch hours or breaks, or similar paid time off,

is permitted.” Supplemental Rules, Paragraph 5(B), of the Election Rules provides, “No Local Union services, facilities, equipment or goods...shall be used to promote the candidacy of any individual or slate unless the Local notifies all candidates of the items available for use and all candidates are provided equal access at equal cost for such goods and services.”

No evidence was presented that the Stand United candidates were campaigning or distributing SUS pens during time paid for by the Union nor is there evidence to establish who put the stickers on the pick boards, which are not locked bulletin boards. The dry erase board with the Division Chair’s name and contact information is used to assist the members and does not constitute campaign material. As the Union representatives monitoring the pick, Rivera and Manzella were responsible for ensuring that no campaign materials were placed on the sign board or the pick boards. In this case there is no evidence as to whether the stickers on the pick boards were there for five minutes or five hours or five days, so I cannot determine if Rivera and Manzella were negligent in exercising that responsibility. All Union staff and officers are directed to carefully and continuously monitor all Union and TA bulletin boards and to immediately remove any campaign material.

However, it appears that as to the stickers on the dry erase board they were not removed for over two weeks. TWUS will be given an opportunity to place similar campaign material on or near the board and have it remain for two weeks.

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 V(6)(1)(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