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DECISION

Protest TWUS-16-12
Use of Union resources TA Surface

By email dated September 28, 2012, Attorney Dean Hubbard, on behalf of the Transport Workers United Slate and Joseph Campbell, filed a protest alleging that the Union and the Stand United Slate violated the law and the Union constitutions and by-laws by misusing union resources for campaign purposes. In particular, the protester cites a press conference called by President Samuelsen following an attack on a bus operator with a hypodermic syringe. The protester alleges that Samuelsen excluded Stephan Thomas, the elected VP from TA Surface, as well as the members of the Bus Operators Action Committee (BOAC) from TA Surface who are supporters of Thomas. Instead, Samuelsen appeared and was photographed for the website with Frank Austen, a Stand United supporter who is out of OA. According to the protester, Mr. Thomas was also not notified of the recent Local 100 “flash mob” rally in opposition to the TA’s proposal to hire part-time Bus Operators. In contrast, Thomas’ Stand United opponent for TA Surface VP, JP Patafio, is heavily featured in the video of the event, currently posted on the Local 100 website.

The investigation revealed that the attack on the bus operator took place on Monday, September 24. As Chair of the Bus Operators Action Committee, the primary committee dealing with bus operator safety, Frank Austen automatically received a text alert from the Transit Authority about the attack. (According to Austen, Thomas should also have received the same alert directly from the TA.) Austen followed protocol and immediately notified President

Samuelsen, Earl Phillips, Vice-President Thomas and Willie Rivera, the Division Chair, to let them know that the attack had occurred and to give them the name of the hospital at which the victim was being treated. Samuelsen and Austen immediately went to the hospital. Thomas could have gone in response to the alert from either the TA or Austen, but did not. The media soon appeared and Samuelsen answered their questions. It was not a pre-planned press conference.

In addition to the untimeliness of the protest, coming as it did five days after the alleged press conference, I find that there is no evidence that Stephan Thomas was deliberately excluded from the event or in any way discriminated against because of his status as a TWUS candidate. The picture on the website was of Samuelsen and Austen participating in a newsworthy event unrelated to the campaign.

Similarly, the protest about the flash mob demonstration about part-time bus operators is also untimely. The demonstration took place on September 13, more than two weeks before the protest was filed. It was intentionally planned to take place at the same time and in the same building as contract negotiations between the Union and the TA were being held. President Samuelsen, VP Thomas and a number of other VP's and staff were present at the negotiations and thus were not at the demonstration, which was led by Charlie Jenkins, the Union's Director of Organizing. There was no discussion during the event or in the video on the website of the election or of any particular candidate. I find no violation of the Election Rules or the LMRDA.

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 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 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.

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By email:

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Elections Committee