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February 1, 2019

**JUDICIAL PANEL CASE NO. 18-103**  
**Local 375 Election Protest**

GREETINGS:

Enclosed is my decision in the above-captioned case.

In Solidarity,

Richard Abelson  
Judicial Panel Chairperson

RA:spp

- cc: Lee Saunders, President
- Elissa McBride, Secretary-Treasurer
- James Howell, Regional Director O&FS
- John English, AFSD
- Henry Garrido, Executive Director DC 37
- Naze Andreville
- Emad Mak
- John Gergely
- Matthew Crosswell
- Omar Ortiz
- Silvia Lorenzo
- Liz Eastman
- Mike Troman
- Ron Vega
- Vincent Sawinski
- Josh Barnett
- Mitch Feder

Mike Kenny  
Harry Donas  
Zach Schultz  
Thomas Constantine  
Migdalia Acevedo  
Jose Concepcion  
Antonio Dones  
John Reade  
Elaine Garcia  
Jennifer Rodriguez  
Sam Nebedum  
Rebecca Freed  
Kolade Olukanni  
Prabir Dhar  
Dozie Chukwuka  
Ricardo Hinkle  
Stacey Moriates  
Dorita Clarke  
Brenda Gill  
Noah Kaufman  
Barry Schwartz  
Eric Sattler  
Adam Gawronski  
Nashat Atalla  
Cynthia Davis  
Julie Gerring  
Veronica Julius  
Dana Driskell  
Berl Blair  
John Reade  
Maria Puternicki  
Dennis Antzoulatos  
Alexander Frenzel  
Dhiraj Patel  
Aditi Basu  
Gary Macio  
Rebecca Freed  
Vishnu Sharma  
Jeff Kaplan  
Andrew Golson  
Ershaun Harris  
Mohamed Abdelaal

Aniruddh Rawal  
Gaurang Dave  
Willie Sica

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**JUDICIAL PANEL CASE NO. 18-103**

**Local 375 Election Protest**

The matter concerns a protest of the election and runoff election for all officers, executive board and delegate positions in Local 375. Local 375 is the Civil Service Technical Guild, New York City. Local 375 is affiliated with New York City District Council 37. The general election was conducted as a mail ballot election, with ballots counted on November 5, 2018; and the ballots for the runoff election were counted on December 6, 2018. The timely protest to the election was filed by Sister Liz Eastman, Brother Ronaldo Vega, and Brother Antonio Donas, all unsuccessful candidates for office. Local 375 is currently under administratorship, and on December 18, 2018, the Local 375 Administrator forwarded the protests to the Judicial Panel for action.

The case was assigned to Judicial Panel Chairperson, Richard Abelson, for investigation and decision. The hearing on the protest was scheduled for January 24, 2019 in New York City, NY.

**ELECTION RESULTS**

(See attached)

**REPORT OF THE INVESTIGATING OFFICER**

The first item of the protest concerns three emails sent out by Brother Mitchell Feder, a candidate for 1<sup>st</sup> vice president. The three emails were dated October 23, 2018, September 16, 2018, and November 27, 2018. The emails of September 16, 2018, and November 27, 2018, are not campaign emails, but rather are informational emails sent by

Brother Feder from his personal email account to an unidentified number of members on their City of New York work emails. The October 23, 2018 email is clearly a campaign email which solicits support for the "Team Troman" slate, of which Brother Feder was a candidate. The record shows that the October 23, 2018 campaign email was sent from Brother Feder's private email account.

Regarding the October 23, 2018 campaign email, Brother Feder testified that he sent the campaign email to a list of members at their private email addresses. Brother Feder further testified that he personally compiled the email list over a period of years and was not given any list by anyone in DC 37 or Local 375. There is no violation of Appendix D of the International Constitution when a member sends campaign literature from a private personal email address to a list of members at their private email addresses. No evidence was submitted that the October 23, 2018 campaign email was sent to a member's City of New York work email. Further, Brother Feder testified at hearing that, to his knowledge, he did not send the email to any member's City of New York work email. This item of the election protest is dismissed.

The September 16, 2018 and November 27, 2018 emails are not campaign emails. The protest asserts that sending the emails during the pendency of the election, was improper because Brother Feder had no authority to send informational emails to Local 375 members, and the emails could have been construed as being sent for campaign purposes even if they were informational and not direct campaign pieces. Brother Feder and Sister Stacey Moriates testified that Brother Feder had sent numerous informational

emails while Local 375 was under administratorship. There is no evidence that there have been objections to the past informational emails sent by Brother Feder. Further, Brother Feder is a Local 375 delegate to DC 37. As such, it is not improper for him to communicate with the members regarding issues arising at DC 37. The September 16, 2018 and November 27, 2018 emails do not violate Appendix D of the International Constitution. Members have the right to communicate using informational emails. This has been ruled upon as such in prior Judicial Panel decisions.

The final issue of the protest relative to the September 16, 2018 email is that Brother Feder signed the communication, "Mitchell Feder - DC 37 Delegate - Local 375, Duly Elected 1<sup>st</sup> Vice-President, Local 375." The protestants state that the title Brother Feder utilized does not exist since Local 375 is under an administratorship, and all elected officers were dismissed by the Administrator. The protestants assert that signing the communication in this fashion implies an endorsement by Local 375.

Brother Feder is a Local 375 delegate to DC 37. The fact that he utilized the additional title "Duly Elected 1<sup>st</sup> Vice-President, Local 375" when he sent his September 16, 2018 communication does not rise to the level where it can be assumed that any member construed his use of that title as an endorsement by Local 375. This item of the protest is dismissed.

The second issue raised in the protest is that the piece of campaign literature sent by "Team Troman," contains a picture of Brother Antonio E. Dones, the slate candidate for secretary, where he is allegedly wearing a hat with the DC 37 logo visible on the front

of the hat. The protestants protest that the picture of Brother Dones wearing the hat implies an endorsement of "Team Troman" by DC 37. They also allege that the picture also violates the prohibition in the Appendix D of the International Constitution against the use of union resources to support a candidate.

The picture of Brother Dones allegedly wearing a hat with a DC 37 logo is so blurry that the logo on the hat cannot be identified. The use of this picture on the piece of campaign literature cannot be construed as an endorsement and is not an improper use of union resources. This item of the protest is dismissed.

The next issue raised in the protest alleges that Brother Feder sent the October 23, 2018 email during working hours. There was no evidence submitted to support the claim that Brother Feder sent the email during his working hours, although it may have been received by members at their private email addresses during the members' working hours. Although Brother Feder may have subjected himself to potential disciplinary action for allegedly sending a private email during working hours, sending the email during working hours is not, in and of itself, a violation of Appendix D of the International Constitution.

The next issue of the protest alleges that Brother Michael Troman and the "Team Troman" slate had "unfettered access to membership lists and Chapter demographics and could enter the premises of any agency as part of researching and representing a grievance." This item of the protest also alleges that Brother Troman is a Local 375

grievance representative, but not an elected officer, and should not be allowed to run for office.

No evidence was submitted that Brother Troman and the "Team Troman" slate had any access to any Local 375 membership lists or Chapter demographics. Brother Troman denied any such access. This item of the protest is dismissed. Further, there was no evidence submitted that Brother Troman, or any member of the "Team Troman" slate improperly campaigned on employer premises. The fact that Brother Troman had access to worksites because he was performing his functions as a grievance representative, is not a violation of Appendix D of the International Constitution. He had to have access to perform his grievance representative duties. This item of the protest is dismissed.

The Local 375 and International Constitutions provide the unfettered right of all members in good standing, who meet the criteria to run for office, the ability to run for office. Brother Troman is a member in good standing of Local 375 and is eligible to run for office. It should also be noted that there was no timely eligibility challenge to Brother Troman's candidacy filed prior to the election. This item of the protest is dismissed.

The next issue set forth in the protest is that on October 5, 2018, the election committee provided a sample ballot to all candidates which did not indicate by watermark or other designation that it was a sample ballot. The protestants assert that this preliminary sample ballot provided the opportunity for "fraud and ballot stuffing."



The allegation that the sample ballot provided an opportunity for "fraud and ballot stuffing" is not supported by any evidence. In fact, examination of the sample ballot indicates that because the sample ballot was sent out prior to the final preparation of the ballot, an error was discovered on the sample ballot that was corrected when the final election ballot was prepared. Therefore, the sample ballot did not match the actual ballot used for the election. For any fraudulent ballots to have been submitted, the perpetrator of the fraud would have had to amend the sample ballot to match the final ballot, color copy the falsified ballot so it would match the final ballot, manufacture a return envelope with the correct union member's name and address, and also assign the unique American Arbitration Association identification number. There is no evidence that any of this occurred. This item of the protest is dismissed.

Protestant Ronaldo Vega protested that based upon the sample ballot sent out by the election committee, he printed campaign literature which contained incorrect numbering of candidates on his slate. As stated above, when the sample ballot was sent out, an error was discovered regarding a candidate who was listed as running for a delegate position to DC 37, when the candidate in question was nominated to run for a delegate position to the Central Labor Council (CLC). The ballot was corrected, and as corrected, the numbering of candidates No. 60 through No. 88 changed. Brother Vega testified that his campaign literature contained the incorrect numbering based on the sample ballot. Brother Vega asserted that the change in numbering caused his campaign literature to be inaccurate and affected the outcome of the election because members

voting for No. 62, for example, would have voted for a different candidate than identified on Brother Vega's campaign literature.

This item of the protest is dismissed. It is unfortunate that Brother Vega chose to have his campaign literature prepared and printed before the ballots were finalized. By sending a sample ballot to candidates, the election committee was able to discover and correct an error, if not caught, would have resulted in a candidate incorrectly running for the wrong office. Thus, if not caught, it would have invalidated the results of the election for the delegates to DC 37 and the delegates to the CLC. It should also be noted that Brother Vega's literature contained more than the identifying numbers when asking members to vote for candidates. His literature also contained the candidates' name along with the number. While unfortunate, the bottom line is that Brother Vega should have waited until the ballot was finalized before printing his campaign material.

The next item of the protest concerns an error contained on the stamped business reply envelope for the runoff election of December 6, 2018. The instructions stated, "You must sign the business reply envelope where indicated." An error was made by AAA and the signature line on the business reply envelope was covered up, and there was no obvious place for members to sign the envelope.

All candidates in the runoff election signed a waiver not to protest this item. Brother Vega, who was not a candidate in the runoff election, was not asked and did not sign a waiver. He protests that the required signature is an "extra measure of security." Further, he protests that only the properly signed envelopes should have been counted.

The unsigned envelopes should have been set aside and/or counted separately. Lastly, Brother Vega argues that if ballots inside of unsigned envelopes were counted in the runoff election of December 6, 2018, then ballots inside of unsigned envelopes should have been counted in the general election of November 5, 2018.

The AAA "Certification of Results" for the November 5, 2018, shows that 1,340 ballot packets were received by the deadline, of which six ballot packets were set aside. Five of the set-aside ballots were from persons not on the eligibility list, and one member dropped off the ballot in person, which is not allowed. No ballots were set aside due to a lack of a signature on the envelope. Therefore, the issue that Brother Vega raises regarding counting ballots without a signature on the outside envelope for the November 5, 2018 election is not relevant.

Brother Vega correctly states that the reason for signing the business reply envelope is to provide an added measure of security to assure that only members cast a vote. In the runoff election, AAA erred in the preparation of the envelopes by covering up the signature line. However, each envelope contained a unique identification code which allowed AAA to match the returned ballot packet with the member. Each of the candidates running for office in the runoff election signed a waiver not to protest this error. Both the election committee and the candidates were convinced that the AAA identification system sufficiently protected the integrity of the voting process. The undersigned agrees. The integrity of the voting process was not compromised because of AAA's error. Voters were properly identified and cross-checked against the

membership roster. Therefore, there was no reason for the signed and unsigned ballots to be segregated and counted separately, as Brother Vega argues. This item of the protest is dismissed.

The final item on the protest concerns the counting of the ballots for the runoff election which occurred on December 6, 2018. An executive order by the President of the United States was issued in which a national day of mourning was declared on Wednesday, December 5, 2018, due to the death of President George H. W. Bush. The federal government was closed for all non-essential workers, including workers of the U.S. Postal Service. The protest filed by Brother Antonio E. Dones protested that the counting of the ballots should have been delayed by one day to accommodate the December 5, 2018 closure, in case there was a back-up in the processing of the mail by the Post Office.

No proof was submitted by any party which indicated that there were any ballots received after the ballots were counted, or that delayed ballots were caused by the December 5, 2018 national day of mourning. Even if such were the case, there is no evidence that any candidate, or slate of candidates, was more adversely affected by a delay in the receipt of any ballots. Had the vote count been scheduled on December 5, 2018, when there was no mail delivery, the election committee would obviously have had to take a different approach. This item of the protest is dismissed.

**DECISION**

All items of the election protest filed by Sister Liz Eastman, Brother Ronaldo Vega, and Brother Antonio Donas, are dismissed. The results of the general election of November 5, 2018 and the runoff election of December 6, 2018, are certified.

February 1, 2019  
Washington, DC

Richard Abelson  
Judicial Panel Chairperson  
AFSCME, AFL-CIO