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February 26, 2021

JUDICIAL PANEL CASE NO. 20-66
Local 768 Election Protest

GREETINGS:

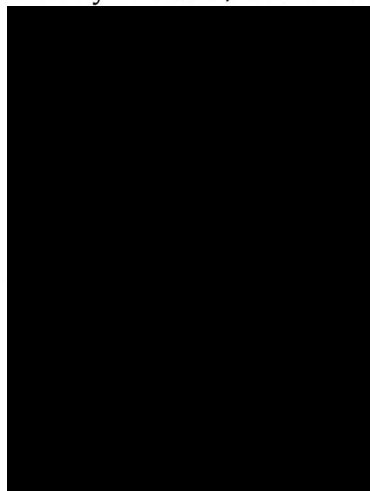
Enclosed is my decision in the above referenced case.

In Solidarity,

Carla Insinga
Judicial Panel Chairperson

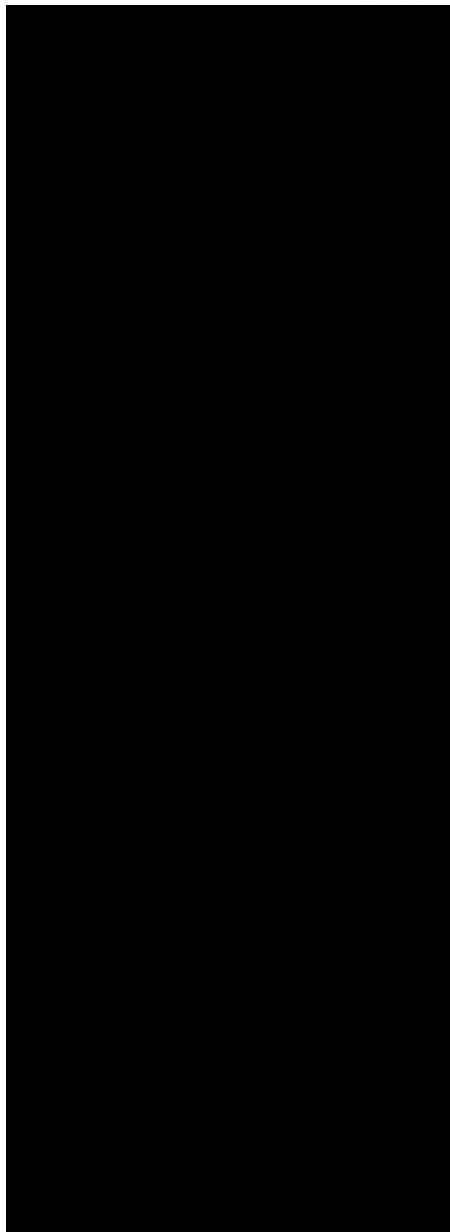
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cc: Lee Saunders, President
Elissa McBride, Secretary-Treasurer
Jim Howell, Regional Director O&FS
John English, AFSD
Henry Garrido, Executive Director DC 37



American Federation of State, County and Municipal Employees, AFL-CIO

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JUDICIAL PANEL CASE NO. 20-66
Local 768 Election Protest

This matter concerns a protest of the election of Local 768 Officers, Trustees and Delegates to District Council 37 and the Central Labor Council. Local 768 represents New York City Health Services Employees in New York City, NY. The election, held via mail-in ballot, was conducted by the American Arbitration Association (AAA). Ballot packets were mailed to eligible voters on Monday, November 9, 2020. District Council 37 provided the AAA with a list of persons who were eligible to vote. The deadline to receive ballots was November 30, 2020, at 9:00 a.m. The tabulation of results took place after 10 a.m. on Monday, November 30, 2020. Timely protests to the election were filed with the Local 768 election committee by [REDACTED] and [REDACTED] on November 30, 2020. Brother [REDACTED] filed a premature protest with the election committee on November 19, 2020. The protest was timely resubmitted on December 2, 2020. [REDACTED] filed an additional protest on December 6, 2020. The election committee scheduled a hearing to be held on Wednesday, December 16, 2020 regarding the protest. On December 13, 2020, the entire election committee resigned. Local 768 President Carmen De Leon requested the Judicial Panel to assume jurisdiction over the protests.

The case was assigned to Judicial Panel Member Carla Insinga for investigation and decision. The hearing on the protests was held virtually on January 21, 2021 via Zoom.

THE PROTEST

(See attached.)

ELECTION RESULTS

(See attached.)

REPORT OF THE INVESTIGATING OFFICER

Sister [REDACTED] was a candidate for the position of [REDACTED] [REDACTED] and [REDACTED] in Local 768's election, which is the subject of this investigation. In Sister [REDACTED] protest she raised concern over the response rate by the members who returned ballots, stating that, "It was mentioned that 4,000 ballots were mailed and less than half was returned." Sister [REDACTED] testified that she was disappointed in the response rate of those members who returned ballots and she felt that, due to the pandemic, the election was not a priority to the membership. She asked that the election be set aside and rerun later.

During the hearing, Sister [REDACTED] testified that a lot of members had questions about the election. Several members approached her and asked who was running, and who the local was backing. When the undersigned asked Sister [REDACTED] if there was a formal endorsement made by the Local, she indicated that she did not believe so. She also reported that members approached her and said they did not receive ballots; she was able to direct them as to how to request a duplicate ballot. Sister [REDACTED] said she was concerned about those members who are not computer savvy because everything was done virtually. She said that she could provide a list of names of eight to ten people who

either did not receive a ballot or who expressed concern about not being computer savvy and were unable to participate in the nominating process.

Sister [REDACTED] filed a protest to the election of Local 768 because she did not receive a ballot and was not afforded the opportunity to vote. Sister [REDACTED] testified that when she did not receive a ballot, she contacted the election committee and requested a duplicate ballot. She later received the duplicate ballot, but it was too late for her to return the ballot. She added that she lives in Pennsylvania and, due to the delay in the mail, her ballot was not received in time for her to vote.

Brother [REDACTED] was a candidate for the position of [REDACTED] in said election. Brother [REDACTED] testified that he filed the protest on behalf of a myriad of others who approached him over the conduct of the election. Several members were not able to participate in the nomination process because they do not have internet access at home and were not permitted to access the internet at work. Brother [REDACTED] also reported that approximately seventy people did not receive their mail-in ballots and some ballot packets were damaged upon receipt. Brother [REDACTED] testified that he would be able to provide a list of names of those who approached him about not receiving their ballots. He did direct them on how to request a duplicate ballot, but some were received too late for the member to vote. Brother [REDACTED] stated that he felt as if pursuing the members' concerns was now wasting time and that he was withdrawing his protest.

Brother [REDACTED], member of the election committee, provided testimony that he participated in the election process at the AAA; the election committee managed the

election, but they did not physically handle the ballots. Brother [REDACTED] stated that after the election protests were filed with the election committee, they set up a date to hear the protests. Before the hearing date, the committee received a letter from an attorney stating that he represented the new executive committee and members of Local 768. The letter requested copies of election results, protests, and statements. After an exchange between the chair of the election committee and the attorney, the committee felt as if they were without representation; that is when they decided to resign. Brother [REDACTED] stated he did not know who hired the attorney, but the attorney was giving them direction.

Sister Carmen De Leon, President of Local 768, testified that after she learned that protests had been filed and was not able to get much information from the election committee, she approached the Executive Board about hiring an attorney. The attorney was hired on behalf of the local to make sure the election was run properly. Initially Arthur Schwartz was the attorney representing the local, now it is Daniel Bright.

Sister De Leon stated that there were members who did not receive ballots and she knew of at least forty-three who contacted the AAA for duplicates.

Mr. Danie Bright, who is attorney hired by Local 768's Executive Board, stated that there were people who did not receive ballots, and there were people who requested replacement ballots. However, the number of replacement ballots that were requested would not impact the outcome of the election. As a statement of fact, Mr. Bright noted that elections of Local 768 are normally done by mail and that slightly more members voted in the 2020 election than in the 2017 election; the only difference in 2020 is that nominations were done by mail due to the pandemic. Mr. Bright further noted that the

protests are being made by incumbent slate of officer who appointed the election committee that ran the election. Sister [REDACTED] protested that only five members did not receive ballots. Sister [REDACTED] stated that she requested and received a duplicate ballot, however it was late due to a delay in the U.S. Postal Service. Finally, Brother [REDACTED] withdrew his claim of protest. All in all, none of the claims warrant a rerun because it would not affect the outcome of the election. Therefore, the protests should be dismissed, and the election upheld.

DECISION

The AAA processed the vote by mail election. Members were provided with a "reasonable opportunity to vote." No evidence was presented by the protestants where alleged violations would have affected the outcome of the election. Therefore, all items of election protests filed by Sisters [REDACTED] and [REDACTED] and Brother [REDACTED] are hereby dismissed. The results of the Local 768 election completed on November 30, 2020 are upheld in their entirety.

February 26, 2021
Harrisburg, PA

Carla Insinga
Judicial Panel Chairperson
AFSCME, AFL-CIO

Carmen De Leon,
President Local 768
DC 37 AFSCME, AFL-CIO
55 Water Street, 23rd Floor
New York, NY 10041

December 21, 2020

Judicial Panel,
AFSCME AFL-CIO
1625 L Street, NW
Washington, DC 20036

Dear Judicial Panel,

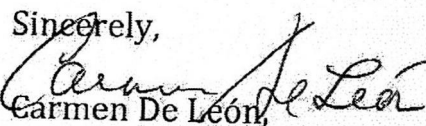
I am writing this letter to request the Judicial Panel assume initial jurisdiction of the protests filed with the Election Committee of Local 768. On the evening of November 30, 2020, a meeting was held to hear the results of the ballots counted that day for the local's election. On the same night the membership present voted to accept the election results, and the new officers were sworn in. The first protest was filed on the night of November 30, 2020, the second protest was filed December 2, 2020, and the third was filed December 6, 2020. Another protest was filed on November 19, 2020, but due to its prematurity the protest needed to be resubmitted. A hearing for the protests was scheduled for Wednesday December 16, 2020. On Sunday December 13, 2020, three days before the scheduled hearing the entire election committee resigned. The election committee was picked by the former president and voted in at an executive board meeting.

Due to these circumstances, on behalf of the new officers, I am requesting the Judicial panel of AFSCME hear the protests. The current officers of the local believe this would be the most impartial and fair way to settle these protests.

Enclosed are copies of the letter of resignation, the AAA certification of election results, and the three protests.

Thank you for your time

Sincerely,


Carmen De León

President Local 768



American Arbitration Association
Dispute Resolution Services Worldwide

Department of Elections

Certification of Results

District Council 37, Local 768

Pursuant to a letter of agreement dated October 19 2020, with District Council 37, Local 768, hereinafter referred to as "Local 768" the American Arbitration Association hereinafter referred to as the "Administrator," agreed to conduct an Election of Officers.

Four Thousand Five Hundred Twenty (4,520) ballot packets were mailed to eligible voters on Monday, November 9, 2020. District Council 37 provided the Administrator with a list of persons who were eligible to vote. The deadline to receive ballots was set for Monday, November 30, 2020, at 9:00 AM. The Administrator received Seven Hundred Three (703) ballot packets prior to the reception deadline. Three (3) ballot packets were not counted because the voter was not on the eligibility list.

The tabulation of results took place after 10:00 AM on Monday, November 30, 2020. The secrecy of the votes were maintain at all times. The results are certified to be as follows:

Office	Candidate	Total
PRESIDENT (1)	Pitz Reid	305
	Carmen De Leon	378
	Blanks/Voids	11
EXECUTIVE VICE PRESIDENT (1)	Anthony Scruggs	279
	Charlton H. L. Smith	394
	Blanks/Voids	21
1st VICE PRESIDENT (1)	Shirley Williams	156
	Sonja Freeman	345
	Benita Joseph	161
	Blanks/Voids	32
2ND VICE PRESIDENT (1)	Alex Leung	254
	James Alaindy Gourdlet	63
	Nate Franco	344
	Blanks/Voids	33
RECORDING SECRETARY (1)	Daysha Padia	292
	Ryan McGuire	381
	Blanks/Voids	21
TREASURER (1)	Louis Moskowitz	413
	Andre Johannes	256
	Blanks/Voids	25
EXECUTIVE BOARD MEMBERS (3)	Venessa O'Neal	274
	Benjamin Elliott	101

	Belinda McMullen	390
	Mark D. Allen	365
	Eric Luchs	348
	Grace Peluso	175
	Hallie Light	185
	Frances Clarke	93
	Blanks/Voids	151
TRUSTEE 1 YEAR TERM (1)	Charles Forrest	435
	Jhoanne Terrado	210
	Blanks/Voids	49
TRUSTEE 2 YEAR TERM (1)	Linda Ruiz	462
	Stewart Bertrand	193
	Blanks/Voids	39
TRUSTEE 3 YEAR TERM (1)	Keeshone McLaurin	126
	Luke Howell	162
	Lisa Blackett	355
	Blanks/Voids	51
SERGEANT-AT-ARMS	Daniel J. Bellevue	397
	William Abraham	227
	Blanks/Voids	70
DELEGATES TO DC 37 (7)	Shirley Williams	178
	Anthony Scruggs	243
	Venessa O'Neal	151
	Benjamin Elliott	91
	Keeshone McLaurin	179
	Luke Howell	83
	Daysha Padia	176
	James Alaindy Gourdet	122
	Linda Ruiz	420
	Nikki Simpkins-Watson	342
	Charlton H.L. Smith	319
	Eric Luchs	334
	Mark D. Allen	339
	Charles Forrest	336
	Rajesh Mehra	331
	Godwin N. Okeke	137
	Hallie Light	99
	Nadia Cardinas	181
	Demba Sanyang	129
	Joseph C. Kennedy	182
	Blanks/Voids	486
DELEGATES TO CENTRAL LABOR COUNCIL (2)	James Alaindy Gourdet	86
	Lisa Blackett	393
	Louis Moskowitz	363
	Antionette Pentheny	143
	Yvette Thomas	198
	ShellyAnn Mitchell-Holder	95
	Blanks/Voids	110

Rejected	Scan Count	
0	694	
6	0	
Total Scanned	700	



Scott Boswell
 Director of Elections
 Dated: November 30, 2020