

SEIU, LOCAL 32BJ 2024 ELECTION COMMITTEE REPORT ON THE
SEPTEMBER 2024 PROTEST OF CARLOS GUZMAN

Protest Claims

Member Carlos Guzman, a candidate for President in the 2024 Local 32BJ election, sent a protest to the Election Committee dated September 20, 2024.¹ (Hearing Ex. 1). The protest reads as follows:

RE: Challenge and/or complaint to the results and outcome of elections of September 19, 2024.

On September 20, 2024, I received an Email from Metztlí A. Hamelius, Internal Union Election Coordinator of the Election results signed by Hiroyuki Kawahara Assistant Vice-President of the American Arbitration Association, but not from the Committee on Elections, regarding the certification elections held on September 19, 2024.

I hereby challenge the results of the outcome of the election held on September 19, 2024 and incorporate each and every previous appeal regarding the nomination, election procedures, results and the 186,056 ballots mailed out that do not concur with the Form LM-2 Labor Organization Annual Report total Membership Status Category of 151,519 (Fulltime 125,597, Parttime

¹ Pursuant to the rules of the Election Committee, all protests concerning the conduct of the election were required to be filed by 6:00 p.m. on September 21. Protesters were instructed to file by emailing the protest to Election Coordinator Metztlí Hamelius. On September 11, Ms. Hamelius sent an email to Mr. Guzman advising him of the ballot count procedures and reminding him of the September 21 deadline for protests. Although Mr. Guzman's protest was dated September 20, it was not emailed to Ms. Hamelius until September 22. Despite the untimeliness of the protest, the Committee is addressing the issues raised by Mr. Guzman on the merits.

25,922) signed on March 29, 2024 by Emmanuel D. Pastreich and John Santos (included with this challenge letter).

The protest includes only one specific allegation – that the number of ballots mailed to members in the election exceeded the number of members reported to the Department of Labor on the Union’s 2023 LM-2. However, the protest also states that it “incorporate[s] each and every previous appeal regarding the nomination, election procedures, results” of the Election. Mr. Guzman submitted four other letters that include charges related to the conduct of the election.

The first is Mr. Guzman’s letter of July 8 addressed to Secretary-Treasurer John Santos. (Ex. 2). In the July 8 letter, Mr. Guzman included one specific charge: he claimed that “Union officers, business agents and Shop Stewards obstructed union members and members of my slate's ability to collect signatures from Local 32BJ members and without authorization, removed from buildings our petitions signed by members.” The July 8 letter also included a request that Mr. Guzman be provided a copy of the petitions filed in support of the nomination of the candidates on the opposing slate.

The July 8 letter was forwarded to the Election Committee. On July 9, Counsel for the Election Committee wrote to Mr. Guzman requesting that he provide any evidence that supported his claims to the Committee. Counsel specified that the evidence should “include sworn statements of individuals who witnessed events and provide details as to who and what was seen by these witnesses and at what times.” Counsel also advised Mr. Guzman that the Committee would not provide him copies of the petitions submitted by the opposing slate.

On July 18, Mr. Guzman sent a letter to Secretary-Treasurer Santos. (Ex. 10). In that letter, he asserted that

- (a) because the Union includes “170,000 SEIU Local 32BJ members,” the 30-day period to collect signatures on nominating petitions was too short. He also asserted that the geographic scope of the Union was so large that members are deprived of a “reasonable opportunity to nominate candidates and run for office.”
- (b) “only few 32BJ members received the 2024 election and nomination notice and rules of election.”
- (c) the nomination petitions of the Manny Pastreich Stand Together slate should be held “invalid” because they included more information than was required to be included under the Constitution and Bylaws.
- (d) the Stand Together petitions in the New York district included nominees for “Executive Board Member” in the section of the petition concerning nominees for District offices, rather than identifying those offices as “District Board Member.” He contended that for this reason the nominees for these offices should be deemed ineligible.
- (e) the Stand Together petitions in the New York District included nominees for “Grievance Board” in the section of the petition concerning nominees for District offices, rather than identifying those offices as “Grievance Board Member.” He contended that for

this reason the nominees for these offices should be deemed ineligible.

- (f) the Union distributed checks to shop stewards in May 2024 and gave them lists of members from whom to collect signatures and “intimidate, harass and obstruct members of Local 32BJ in signing the petitions of our slate.”
- (g) that such obstruction occurred at the following list of locations –
 - a. 57th and Eleventh Avenue – a shop steward harassed a member of his slate and took petitions from her
 - b. Two Fifth Avenue – a shop steward obstructed the collection of signatures.
 - c. At 200 East 66th St, and at 303 East 60th Street – a shop steward removed his slate’s petitions without authorization.
 - d. At a Lefrak City building “our signed petitions were removed.”
 - e. At 225 Liberty Street and at the World Trade Center and at the Grace Building on West 42nd Street, a Business Agent obstructed the collection of signatures.
 - f. “In Queens” a Vice President obstructed collecting signatures “from Flushing to Woodside.”
 - g. At 500 Fifth Avenue “a female person” was “telling members that they have only to sign the Stand Together slate, not to

sign the Members for a Better Union Slate, and told the members I was a thief.”

At the conclusion of the July 18 letter, Mr. Guzman again requested copies of the Stand Together petitions and also requested copies of the signed “willingness to run” forms submitted by the Stand Together slate.

On July 21, Mr. Guzman submitted a letter to Union President Manny Pastreich complaining about the Election Committee’s initial eligibility determinations. (Ex. 4). In addition to protesting the Election Committee’s determination he reiterated two complaints: (1) that supporters of his slate had been obstructed in their efforts to obtain signatures on petitions; and (2) that the petitions of the Stand Together slate had incorrectly stated the names of offices to which certain of their candidates were being nominated.

In the Election Committee’s July 26 final decision on eligibility and nominations, the Committee held that the fact that Stand Together petitions included more information than was required by the Constitution did not render those petitions invalid, that the designation of the offices on the Stand Together petitions was sufficiently clear, and that the fact that the petitions for Mr. Guzman’s slate included sufficient signatures to meet constitutionally mandated thresholds meant that the Committee did not have to rule at that time on a complaint that his efforts to secure members’ signatures had been interfered with. As to this last issue, the Committee determined that Mr. Guzman would be able to pursue any claim that this interference otherwise affected the conduct of the election when the Committee

considered protests concerning the conduct of the election after the ballots had been counted.

Finally, on July 28, Mr. Guzman sent a letter to Secretary-Treasurer John Santos appealing the Election Committee's final decision on eligibility and nominations. (Ex. 6). In that letter, he raised one more issue not previously asserted: he asserted that candidates should not be precluded from running for office on the ground they had not met the 2-year continuous good standing rule, and signatures on petitions should not be invalidated on the ground that they had not paid dues to the Union because "The Secretary-Treasurer must enforce the Open Shop clause in the contracts. That is not the job of insurgent candidates."

In sum, these letters raise only the following issues:

- (1) that Union officials, shop stewards and members interfered with Mr. Guzman's efforts to gather signatures on his petitions;
- (2) that the number of ballots mailed to the members exceeded the number of members reported on the LM-2;
- (3) that the Stand Together petitions included more information than was required by the Constitution;
- (4) that the description of offices on the Stand Together petitions did not match the language in the Constitution;
- (5) that the candidates previously determined to be ineligible for nomination should have been found eligible;
- (6) that the candidates who did not maintain continuous good standing should have been excused for their failure to pay dues timely because it is, in Mr. Guzman's

judgment, the Union's responsibility to "enforce" the Open Shop provision in the contracts;

(7) that the Union has so many members that the 30-day period for collecting signatures is too short;

(8) that the geographic size of the Union is so large that members are not afforded a reasonable opportunity to seek nomination and run for office; and

(9) that payments were made to shop steward in May and at that time they were given lists of members from whom to seek signatures on nominating petitions and were instructed to interfere the efforts of Mr. Guzman's slate to secure signatures.

(10) that some members did not receive copies of the Notice of Election with its rules concerning nomination and balloting.

In addition to these issues, Ms. Brion raised an issue at the hearing concerning replacement ballots. She asserted that three or four co-workers had not received ballots, requested replacements and did not receive replacements. This issue was not encompassed in Mr. Guzman's protest, but the Committee has considered it and includes its decision on that claim in this report.

The Committee held a hearing on all of these claims. On September 22, Counsel for the Committee wrote to Mr. Guzman to advise him of the location, date and time of the hearing. In that email, Counsel stated "It is important that you bring to the Committee documents, witnesses, witness statements and any arguments in support of any and all of the claims you are making."

The hearing was held at the Union's headquarters on September 24. Mr. Guzman, Wilma Sanchez and Alexandra Brion appeared on behalf of the Members

for a Better Union Slate. Elizabeth Baker and John Santos appeared on behalf of the Stand Together slate. Also attending, at the request of the Committee were: Hiroyuki Kawahara of the American Arbitration Association; and Lori Orme, Local 32BJ Director of Finance of the Union. Mr. Kawahara and Ms. Orme provided testimony at the request of the Election Committee. In addition, Metzli Hamelius, Local 32BJ Election Coordinator, also provided testimony at the request of the Election Committee. The special counsel to the Election Committee, Walter Meginniss, questioned the witnesses.

Members for a Better Union Presentation at the Hearing:

Mr. Guzman at the hearing offered the following:

(1) Interference with gathering signatures on nominating petitions

Mr. Guzman stated that his supporters were interfered with in their efforts to obtain signatures on nominating petitions. He was then questioned as to what information he had to support that. He referred to the instances described in his July 18 letter (Ex. 10), and he provided the following information as to each incident.

57th Street and Eleventh Avenue: he stated that he did not know the name of the member who complained, but when he heard the complaint, he called Vice President Denis Johnston and told him that a shop steward in the building was not giving signed petitions back to the member who had been seeking signatures. He stated that, following his phone call to Mr. Johnston, the petitions were returned to the member who had called him. He confirmed that his petition was actually filed in support of his nomination, but he stated that the member “suffered some trauma” because of this incident.

Two Fifth Avenue – member Jarvis McCarthy, who was a candidate for office on Mr. Guzman’s slate, told Mr. Guzman that he had sought to get signatures from members in this building. Mr. McCarthy told him he was unable to obtain the signatures. Mr. McCarthy told Mr. Guzman that the cause of this was that the shop steward in the building was telling members not to sign. Mr. Guzman was not able to identify the date that this occurred or the name of the person referred to as a shop steward. Mr. McCarthy did not appear at the hearing.

200 East 66th Street – Mr. Guzman stated that a member told him that he had left signed petitions in the building so that other members could add their signatures. He reported to Mr. Guzman that he returned to the building three days later and the petitions had been “removed.” The member reported to Mr. Guzman that he did not know who removed them.

303 East 60th Street – the same member reported to Mr. Guzman that he had left petitions to be signed at this building and that, when he returned, the petitions were not there. The member reported that he does not know who removed the petitions.

Lefrak City – Mr. Guzman reported that another member – whom he could not name – again reported that petitions had been left in the building and could not be found when the member returned to retrieve them. Mr. Guzman stated that the member did not know who took the petitions.

225 Liberty – Mr. Guzman reported that a shop steward (not a Business Agent) and “delegate” (also referred to as a shop steward) obstructed the collection of signatures. He did not know the name of the shop steward or delegate. Mr.

Guzman stated that the nature of the interference was that the shop steward and/or delegate told the member collecting signatures not to do so inside the building, but to go outside. Mr. Guzman reported that the member who was collecting signatures was a worker in the building. Mr. Guzman also stated that he did not know if there was a rule against collecting signatures inside the building, but the member said to Mr. Guzman that others had been permitted to collect signatures inside. He also stated that the member was in fact able to collect signatures outside the building – including the signatures of persons who worked in the building – and those petitions were submitted in support of nomination of Mr. Guzman’s slate.

World Trade Center – Mr. Guzman stated that he was told that the same problem that happened at 225 Liberty Street also happened at the World Trade Center. He does not know the name of the person who reported this to him and does not know the name of the “business agent” who was reported to have obstructed the signature gathering.

Queens – Mr. Guzman was told by a person who might have been named Frank Rizzo that a Vice President had obstructed signature-gathering from Flushing to Woodside. He did not know the name of the Vice President involved. He stated that it was reported to him that the Vice President was telling members “Don’t get involved.”

Grace Building at 42d Street – Mr. Guzman stated that two new members – whose names he did not know – reported to him that a business agent had interfered with signature collection. He could not provide any details of the name of the person interfering or the nature of the interference.

500 Fifth Avenue – a worker in the building reported to Mr. Guzman that “a female person” was telling members not to sign his slate’s petitions but to sign only the Stand Together petitions. He stated that the person did not do anything else to prevent members from signing, but that she did call him a thief.²

Alexandra Brion added a report of one other issue. She stated that she had been collecting signatures at the Port Authority when a shop steward whose name she did not remember learned that the petitions were for the Members for A Better Union slate and told workers “don’t sign the petitions.” She was able to have Mr. Guzman speak to the shop steward and tell the shop steward that the members have a right to sign. She stated that she was able to continue and did in fact collect signatures on their petitions.

When he had finished his reports on these incidents, Mr. Guzman acknowledged that the Election Committee had determined that, in fact, he had obtained a sufficient number of signatures to be nominated for office. He stated, however, that the point of the protest was to enforce “democracy.” He argued that, because of the interference that was reported to him, the Stand Together slate should have been disqualified and he and his slate should have been declared the winners of the election.

(2) The number of members who were mailed ballots exceeded the number of members reported by the Union on its LM-2 report

Mr. Guzman complained that the number of ballots mailed out was much

² Mr. Guzman called Mr. Johnston with respect to only one of these incidents. He did not call Mr. Johnston or any other Union official with respect to the others.

higher than the number of members reported by the Union on the LM-2 for the calendar year ending 12-31-2023. He argued that this meant that the Union sent ballots to non-members. He pointed out that the number of members reported on the LM-2 was just over 151,519, while the AAA reported having sent ballots to 186,056 members. (Ex. 9 – AAA certification; and Ex. 1 – Sept. 20 protest). He also pointed out that the AAA certification for the 2021 election included a report that the AAA had sent out only 72,639 ballots to New York Metro District members in 2021 while the AAA’s certification of the 2024 election included a report that the AAA had sent out 93,211 ballots to New York Metro District members. He argued that this discrepancy meant that in the 2024 election, ballots must have been sent to persons who were not members eligible to vote.

(3) Designations of offices and extraneous information of the Stand Together petitions

Mr. Guzman restated the claims that he had made in the Election Committee’s hearing on eligibility that the Stand Together petitions should be invalidated because (1) the descriptions of offices did not exactly match the verbiage in the Constitution; and (2) the petitions included more information than is called for in the Constitution. He emphasized that the Stand Together petition asked members to include contact information and included a box that the member could check if the member wanted to receive other communications from the campaign. And he specified that the Stand Together slate’s designation of “Executive Board Member” from the New York District “Grievance Board” should have been listed as “District Board Member” and “Grievance Board Member.”

(4) Failure to maintain continuous good standing and failure to pay dues

Mr. Guzman restated his objection to the Committee's finding five candidates ineligible. Certain of those candidates were found ineligible because they had failed to maintain continuous good standing during the two years immediately preceding the election. One candidate – not on Mr. Guzman's slate – had been found ineligible because his nominating petitions did not include the signatures of a sufficient number of members in good standing – the petition included signatures of persons who had not paid dues.

Mr. Guzman argued that all of these candidates should be found eligible because the nonpayment of dues was the result of the Union's failure to enforce dues payment obligations.

(5) Payments to shop stewards and distribution of lists

Mr. Guzman reported that he believed shop stewards had been given payments by the Union in May or June and, at the time those payments were given, he believes the shop stewards were also given lists of members to contact about signing petitions for Stand Together and were also given instructions to interfere with Mr. Guzman's slates efforts to secure signatures. When asked what was the basis for this claim, he asserted that something similar had happened in the past, and he had been informed by two shop stewards that they had received lists when they were given checks this year. He stated that he does not know the names of those shop stewards.

(6) Failure to obtain replacement ballots

Ms. Brion reported that she learned that several co-workers had not received ballots, and that she had advised them of the phone number used by the AAA for

members to request replacements. She identified them as Maria Javier, Marcia Garcia and Mike Ewell, and a fourth co-worker whose name was Manny. She testified that these co-workers then told her they had requested replacement ballots but had not received them. She provided a copy of an email she had sent to President Pastreich at 7:42 p.m. requesting that ballots be sent by overnight mail to members who had not received ballots. The email did not name those members.

Stand Together Presentation at the Hearing

Elizabeth Baker appeared on behalf of the Stand Together slate and made a number of arguments as to why the presentations made by Mr. Guzman and Ms. Brion did not establish that any violations had occurred.

Secretary-Treasurer John Santos appeared and made a presentation on the issue of shop steward payments. He stated that every year, shop stewards are granted a dues rebate for their work as shop stewards in the year preceding the payment. The payments are generally done in the spring, and this year the payments were distributed in April and May. He stated that the period for the distribution this was chosen for the very purpose of ensuring that the distribution would be made well before the petitioning process began. The offices wanted be sure to keep the distribution of the rebates very separate from the election process.

He also testified that, at the time of the distribution, some of the stewards were on vacation and could not retrieve their checks. The Union determined that those checks should be held until after the election, again so that there was a wall of separation between the distribution of checks and the election. He testified that no member lists were given to stewards.

Other Witnesses at the Hearing:

Lori Orme, Chief of Operations

At the request of the Election Committee, Ms. Orme explained that the list of eligible voters – the mailing list inspected by Mr. Guzman and Ms. Cruz – included more names than the number of members reported on the LM-2 for several reasons. First, she explained that the LM-2 covers a different time period than is used in compiling the list of eligible voters. The 2023 LM-2 number is a snapshot taken on December 31, 2023. In contrast, the list of persons to be sent ballots was prepared in the summer of 2024 and includes all members who were eligible at that time.

Second, the number entered on the LM-2 is the number of persons for whom the Union actually received dues in December 2023. She explained that employers frequently do not remit dues deducted from members' paychecks on a timely basis in the month of December but make catch-up transmissions in the months that follow. The number on the LM-2 does not capture those catch-up payments. Similarly, many hand-payers pay dues for months in advance. Those who paid December 2023 dues before December would not be included in the LM-2 number. And those who were late in paying December dues – for example, having paid no dues in January, but paying December and January dues in January – would not be included in the LM-2 numbers. With respect to members whose dues were checked off, if an employer failed to send the monthly transmittal of checked-off dues in December 2023, the employees of that employer would not be included in the calculation used in the LM-2.

In contrast, the number of ballots mailed out is based on all members, not just

those whose dues were received in a particular month. Moreover, even if the member was late in paying dues in July or August, the member would still be on the list of eligible voters sent to the AAA in August because the Constitution provides that the member does not lose eligibility to vote until the member has failed to pay for three consecutive months.³

Third, while the LM-2 number is based solely on those for whom dues were received, the list of eligible voters includes certain categories of employees who are excused from paying dues: those who were either on a leave of absence (of up to 6 months), and those have been terminated but are in the midst of a grievance or arbitration proceeding challenging that termination.⁴

Finally, Ms. Orme testified that the LM-2 number does not reflect the growth the Union has experienced in 2024. New members have been brought into the Union through new organizing in the security division and through the effort to sign up members in the airports division.

Hiroyuki Kawahara

Mr. Hiroyuki Kawahara, Assistant Director of Elections of the American Arbitration Association, appeared at the request of the Committee to answer certain questions. He reported that he supervised the AAA's management of the 2024 Local

⁴ These exceptions are based on specific provisions of the Constitution and Bylaws: Article XI, Section 7 (a) provides that "Members whose termination is being grieved or arbitrated by the Local Union and who are not otherwise employed under the Local Union's bargaining agreements, shall remain obligated to pay dues if they are reinstated. Such member will not be deemed in arrears for the period of their termination if they pay minimum dues . . . for that period upon their reinstatement." And Article VII, Section 7 (b) provides that a member on a leave of absence for up to six months "may pay minimum dues for the leave period upon reinstatement and will be considered in good standing during the leave period."

32BJ election of officers. He stated that the AAA maintained a dedicated phone line to receive requests for replacement ballots made by individuals who wanted to vote in that election. He reported that the line was operative throughout the balloting period and was functional throughout.

He reported that when an individual requested a replacement, the AAA would send the ballot. The AAA checks to see whether the person requesting is on the list of voters provided by the AAA. If the person is not on the list, the ballot sent will include a “not on list” notation on the return envelope, but in every instance the requesting person is sent a replacement ballot.

He reported that the AAA maintains a log of all persons who made a request. He was asked by Election Coordinator Metzli Hamelius to research the log to see whether the AAA had received requests from any of the individuals identified by Ms. Brion: Maria Javier, Marcia Garcia, Mike Ewell, and “Manny.” He reported that he had checked the log and the AAA had no request from Maria Javier, Marcia Garcia, or Mike Ewell. He stated that the AAA had found a person on the log with a first name that might correspond to the individual named Manny. That person was Manuel Palazitco, who requested a replacement ballot on September 9; a ballot was mailed to him that same day.

Metzli Hamelius

Finally, Election Coordinator Metzli Hamelius testified at the request of the Election Committee. Ms. Hamelius stated that she was present at the meeting of candidates conducted by the AAA in August 2024. Also present at that meeting were Mr. Guzman and Ms. Brion. She stated that, at that meeting, the AAA

representative announced to all who were present that the AAA maintains a dedicated line that individuals can call to request replacement ballots, and told all present what that phone number was. Ms. Hamelius also reported that this number was posted on the Election page of the Union's website. Finally, Ms. Hamelius reported that, in late August, the Union sent all members on the ballot mailing list a postcard advising members to look for ballots in the mail. The postcard also included the AAA phone number to call in the event the member did not receive a ballot. Finally, Ms. Hamelius reported that she was present on September 9 when Ms. Brion and Mr. Guzman inspected the mailing list. At that time, Ms. Brion stated that she believed some co-workers had not received ballots. Ms. Hamelius stated that she informed Ms. Brion of the phone number to call to request replacements.

Election Committee Decision

(1) Claimed interference with the effort to obtain signatures on petitions.

The recitation of Mr. Guzman's claims set forth above shows that there is just no evidentiary basis for the claim. His recitation is of actions taken by persons whose names he does not know, and these are actions that he did not himself see but knows only by the reports of others. In most instances, he does not even know the names of the persons who reported these episodes. In several instances – claims that petitions were taken from his supporters – he candidly states that those who reported the incidents to him do not know who took the petitions. In other instances, what he describes as interference does not appear to be improper conduct. For example, Ms. Brion reported that when she was collecting signatures at the Port Authority, a

person – again unnamed – was telling members not to sign her petitions. She continued to collect those signatures anyway. While the Committee does not commend this kind of interaction, it is not at all clear to the Committee that “telling someone not to sign” is a form of obstruction, rather than simply campaigning.

Mr. Guzman acknowledged that he was held to have satisfied the nomination requirements and was permitted to run for office. When asked how this alleged interference was still an issue, he argued not that it affected the conduct of the election but that he believed the Stand Together slate should have been found ineligible to run and his slate should have been deemed to have been election. The Committee does not find that his claims of interference are supported and does not accept his argument that the Stand Together slate should have been found ineligible. The Committee believes, instead, that the decision of who should be elected should be for the members to decide through their votes.

(2) The number of mailed ballots exceeded the number of members reported on the most recent LM-2.

AAA reported in its certification that it mailed ballots to 186,056 members. Mr. Guzman has protested that this number is greater than the number of members reported on the Union’s most recent LM-2. In the most recent LM-2, the Union reported 151,519 members. Mr. Guzman asserts that this means ballot were mailed to persons who are not members of the Union.

Ms. Orme testified that the difference in the numbers is due to several objective factors. First, the two numbers cover different time periods. The LM-2 number is a snapshot taken on December 31, 2023. The number of ballots is based

on voting-eligible members as of the date of the preparation of the list in August 2024.

Second, Ms. Orme testified that the number entered on the LM-2 is the number of persons for whom the Union received dues in December 2023. She explained that dues receipts fluctuate from month to month. Employers frequently do not remit dues deducted from members' paychecks on a timely basis in the month of December but make catch-up transmissions in the months that follow. The LM-2 number omits the employees for whom employers failed to send in remittance in December and only did so in later months. The LM-2 number also omit those who paid December dues in advance of December if they did not make another dues payment in December. The number of members eligible to receive ballots is not based on a snapshot like this.

Moreover, members who pay by hand may miss a month of dues payment and still not lose eligibility to vote. Thus, members who missed the December 2023 payment would not be included in the LM-2 but would not for that reason alone lose their right to vote. Only members who have missed dues payments for three consecutive months lose the right to vote. The count of eligible members includes members who may have fallen behind but are not more than three months behind.

Third, the LM-2 number is comprised of active Full-time and Part-Time members. The eligibles list includes those who were not necessarily actively Full-time or Part-time but who were either on a leave of absence (of up to 6 months) or were terminated but are in the midst of a grievance or arbitration proceeding challenging that termination.

Fourth, the 2023 LM-2 numbers do not reflect the growth the Union has experienced in 2024. For example, new members have been brought into the Union through new organizing in the security division and through the effort to sign up members in the airports division.

In sum, Ms. Orme testified that her team included on the list all individuals who fell into any category that would make them eligible to vote, and the group of eligibles cannot be confined to a single snapshot like the one that is the basis for the LM-d report.

Finally, although Mr. Guzman believes that the discrepancy between the LM-2 number and the number of voting-eligible members suggests that something is amiss, even he seems well aware that the actual number of voting-eligible members is much higher than the figure shown in the LM-2. When in his July 18 letter to the Secretary-Treasurer (Ex. 10) he complained that the length of time to gather signatures was too short because the number of Union members is so high, he specifically referred to the Union's "170,000" members, not the 151,519 members noted in the LM-2.

The Committee finds no reason to challenge the account provided Ms. Orme. Mr. Guzman's protest is simply speculation, at best. Moreover, Mr. Guzman offered no basis to conclude that the voter eligibility list included members who were not eligible to vote.

The Committee rejects this protest.

(3) Alleged inadequacies of the Stand Together petitions

Mr. Guzman repeats claims he made when the Committee was considering

whether intending candidates had met the eligibility requirements. He asserts first that the Stand Together petitions should have been invalidated because they included more information than was required by the Constitution. With one exception, discussed below, he does not dispute that the petitions included what the Constitution required; rather he assert that because the petitions included MORE information than what the Constitution required, they were invalid. What is the MORE information of which he complains? The petitions included a line for signatories to provide contact information and a box to check if they were willing to receive communications from the campaign.

This protest is baseless. The Constitution does not prescribe a particular form of petition; it only requires certain information that can be used to determine whether the signer is a member in good standing. The Constitution does not forbid the petition containing other information and the Committee is not prepared to bar candidates from running because they elicited that information.

Mr. Guzman also complains that the Stand Together petitions did not name certain offices sought with the verbiage used in the Constitution. He complains that the description “Executive Board Member” is used in the section of the Stand Together petitions that is devoted to candidates for District office. He asserts that the correct title of this position is “District Board Member.” The issue here is only whether signers of the petition understood what the nominee was running for. There is no reasonable basis for assuming members were confused by this. The Executive Board of the Union is made of Officers and At-Large Executive Board members who are elected by the entire membership, and Executive Board members who are elected

by members in their District. When the Stand Together petitions referred to Executive Board Members in the section of their petitions allocated to District offices, it was sufficiently clear that these were District Board Members.

Semantical arguments should not displace reason and the democratic process.

This is even more true of the complaint about Stand Together's use of the term "Grievance Board." No reasonable argument can be made that a person would not understand that an individual running to be a member of the Grievance Board would be running for the office of "Grievance Board Member."

The Committee rejects this protest.

(4) The argument that the candidates who were found ineligible should have been deemed eligible

The reasons for the Election Committee's eligibility determinations are set out in the Committee's July 26 final decision on eligibility. The Committee stands by that decision and will not revisit it here. Mr. Guzman's argues that those who did not pay dues should be excused from paying dues because it is the Union's responsibility to collect dues. He contends, therefore, that intending candidates who did not meet the continuous good standing requirement should be allowed to run and intending candidates whose petitions were signed by persons who had not paid dues should be allowed to run. The Union's Constitution provides otherwise.

The Committee rejects this challenge.

(5) The claim that the Union is so large that the petitioning period is too short and the members do not have a reasonable opportunity to be nominated and run for office

There is no basis for the contention that the Union has so large that the period for collecting nomination petitions is not long enough. First, it is evidently not true. Mr. Guzman and his slate satisfied the nomination requirements despite the number of members. Second, the difficulties in collecting signatures during the nomination period is not related to the number of members, but to the number of signatures required on petitions. That number is 2% of the electorate for the office, capped at 1,500. The Department of Labor has long held that these numerical thresholds are lawful. Indeed, the Department has rejected Mr. Guzman's challenge to this threshold in the past. There is no basis for this claim.

As to the contention the Union covers too large a geographical area to permit members to seek nomination and run for office, there is no support for that claim in the Constitution or the law. The Union has strong institutional reasons to have a large geographic footprint.

The Committee rejects this challenge.

(6) The claim that when payments were provided to shop stewards, the stewards were given lists of members and instructions to interfere with opponents

Mr. Guzman's assertion that shop stewards were provided payments, given lists of members from whom to obtain signatures on Stand Together's nominating petitions and told to interfere with the signature-gathering efforts of the Members for a Better Union slate is simply not supported by any evidence. Mr. Guzman related that this claim was based on communication from two stewards who reported to him that they had gotten lists. He could not remember who they were.

Mr. Santos testified that stewards receive dues rebate payments once per year,

every year. In 2024, the Union made the distribution well in advance of the petitioning period to ensure that there would be a wall between the rebate payments and the election. With respect to those who could not retrieve their checks during the April to May distribution, the Union held the checks until October, again so that there would be a wall between this distribution and the election processes. He testified that no lists were distributed to shop stewards with those checks and no instructions were given that they should interfere with the efforts of the Members for a Better Union. The Committee has no reason to disbelieve any of Mr. Santos's account.

The Committee rejects this challenge.

(7) The claim that some members did not receive the Notice of Election

Despite the Committee's request that Mr. Guzman provide any information that he has upon which his protests are based, and despite that the Committee has received numerous letters written by Mr. Guzman and conducted lengthy hearings on his claims, he has never offered any information or evidence of any members who did not receive the Notice of Election.

The Committee rejects this challenge.

(8) The claim that members were unable to obtain replacement ballots

Finally, Ms. Brion complained that some co-workers reported to her that they had not received ballots, that they requested replacement ballots from the AAA and that they did not receive replacement ballots. She also reported that she had sent an email to President Pastreich on the evening of September 16 requesting that he authorize the AAA to send ballots to those individuals by FedEx. In the email she

stated that the AAA would only send ballots FedEx if the Union authorized it.

Mr. Kawahara from the AAA testified that the log kept by the AAA showed no requests for replacement ballots had been received from three of the four persons named by Ms. Brion. As to the fourth, Ms. Brion was able to supply only a first name “Manny.” Mr. Kawahara was able to find one individual with the first name of Manuel who had requested a replacement ballot. He did so on September 9, and the AAA sent him a replacement ballot that same day.

Presumably, the argument made on this challenge is that there was a systemic problem with the mailing and replacement ballot program that would require rerunning the election. The evidence offered in support of this claim does not support such a challenge. The reports provided the Committee are only hearsay; and parts of those reports – that the members requested replacement ballots – are contradicted by the business records of the AAA.

The Committee rejects this challenge.

In sum, the Committee rejects the protests filed by Mr. Guzman and supplemented by Ms. Brion and concludes that those candidates who had the greatest number of votes in the AAA’s September 20 certification should be deemed to have won election to their respective offices.

APPEAL RIGHTS

If the slate or any individual candidate wants to appeal this decision, such an appeal must, within 48 hours, be delivered to SEIU Local 32BJ President Pastreich. This may be accomplished by sending an email stating the appeal to President Pastreich care of Metzli Hamelius, Mhamelius @seiu32bj.org. The appeal should state in detail the reason the decision of the Committee should be reversed. The email must be received no later than 6:00 p.m. September 29, 2024.

September 27, 2024