

JUDICIAL PANEL CASE NO.09-116
Local 2187 Election Protest

This matter concerns a protest of an election for officers in Local 2187 held on October 29, 2009. Vanessa Fields, Louis Soto, Ernie Barile, Gary Bryant and Sharon Montgomery, filed the protest. AFSCME Local 2187, Administrative Professional Technical Association, is affiliated with City of Philadelphia District Council 47.

The case was assigned to Judicial Panel Chairperson John Seferian for investigation and decision. Following due notice to all interested parties, the hearing was held on January 15, 2010 in Philadelphia, Pennsylvania.

PROTEST
(See attached)

RESULTS OF THE ELECTION
(See attached)

REPORT OF THE INVESTIGATING OFFICER¹

Relative to item 1 of the protest, Article VII, Section D, of the Local 2187 Constitution expressly states that the president “appoints all standing committees and all special committees of the local subject to the approval of the executive board.” The minutes of the August 17, 2009 executive board meeting reflect that the president’s nominees were carried by “common consent.” Consequently, there was no violation of the AFSCME Election Manual and Appendix D of the International Constitution relative to the appointment of the election committee.

¹ There were issues brought up in the hearing that were outside the points contained in the original protest filed on 11/2/09 and thus were not considered or addressed in this decision.

It was an error in judgment for the Committee for Responsible Leadership (CRL) slate to have as its campaign office the home address of Sister Hoover, the election committee chairperson. However, there was no indication that with respect to her specific duties as election chair, with one exception, she did not perform her duties properly. It is strongly suggested that in future elections, the CRL use another address as its campaign headquarters or should the CRL continue to use Sister Hoover's address, Sister Hoover not serve as the election committee chair.

With respect to the item in the protest dealing with delegate elections, the AFSCME Election Manual states that the notice of election "should indicate what offices are to be filled ... " Consequently, the election committee should have announced prior to nominations the number of delegate seats that were open for election. The Members' First Team slate maintained that it was their understanding on the night of nominations that there were only 32 delegate seats to be filled, consequently, their slate only nominated 32 nominees for delegate. The CRL nominated 36 candidates, due to the fact the incumbent treasurer was on the CRL slate and prior to nominations, knew the amount of per capita tax the local paid to District Council 47, which is part of the formula to determine the number of delegates the local was entitled to. This violation could have affected the outcome of the election for delegates. That portion of the election held on October 29 needs to be rerun.

As to the additional allegations in item 1, slate voting is permissible in AFSCME elections and many locals and councils utilize same in their elections. The undersigned has reviewed the emails concerning this election, including the election instructions.

The instructions for the election were clear and unambiguous. AAA failed to include a signature line on the ballot envelope for the voter to sign as indicated in the ballot instructions. As soon as this was discovered, the election committee corrected the situation. In any event, all the ballots that were sent in, including those that were unsigned, were counted, except for six that were handled as challenged ballots. It appears that the 883 ballots submitted in this election is consistent with past voter tallies. This item is denied.

There were observers present for both slates. AAA utilized the services of the Optimum Solutions Corporation to tabulate the ballots. The ballots were scanned by computer. It is apparent from written documents and information provided at the investigative hearing that all observers were duly instructed as to how the scanning would occur. In fact, at least one observer marked a sample ballot with split voting and the scanner correctly tabulated that ballot. After the ballots were scanned, Maria Landi, an employee of AAA, left the tabulating room to copy the results in her office where the copy machine was. She copied the election results and returned to the tabulating room and distributed the results to the observers and others who were present. Ms. Landi stated to the undersigned that she was gone between five to 10 minutes. It is clear that during the tabulations of votes by the scanners, the observers were present. The only time they were asked to leave was when Ms. Landi went to her office to copy the results. There was no violation concerning the handling of the observers.

Under item 2 of the protest, the fact that requests to examine the ballots were denied by the election committee is not a violation in and of itself. There was no reason

given why the ballots should be examined. The undersigned has determined, based on documents and statements presented at the hearing, that the tabulations of the ballots was proper.

DECISION

The election protest is denied and the election results are affirmed for all offices except for delegates. New nominations and election for delegates is ordered in Local 2187. Nominations and election shall occur within 45 days of receipt of this election.

January 22, 2010
Washington, DC

John Seferian
Judicial Panel Chairperson
AFSCME, AFL-CIO