

OFFICE OF THE ELECTION SUPERVISOR
for the
INTERNATIONAL BROTHERHOOD OF TEAMSTERS

IN RE: ELIGIBILITY OF)	
VINCENT IMBROSCIANO,)	Protest Decision 2006 ESD 138
Local Union 814)	Issued: March 13, 2006
)	OES Case No. E-06-034-022806-HQ
)	
)	

George Daniello, president of Local Union 814, filed an eligibility protest pursuant to Article XIII, Section 2(b) of the Rules for the 2005-2006 IBT International Union Delegate and Officer Election (“*Rules*”). The protest alleged that Vincent Imbrosciano is ineligible for election as delegate to the 2006 IBT Convention under the *Rules*.

Election Supervisor representative Steven R. Newmark investigated this protest.

Findings of Fact

TITAN records show that Imbrosciano paid dues via check-off authorization, except for the period April 2005 through October 2005 when he was injured and out of work. Imbrosciano timely paid cash dues in April for May; however, his dues were late in each of the next three months. Thus, he paid his June dues via check-off from Independence Day holiday earnings in July; in addition, he paid dues for July and August by cash on September 15, 2005.

Imbrosciano does not contest that he was late paying these dues.

Analysis

Article VI, Section 1 of the *Rules* provides that “to be eligible to run for any Convention delegate, alternate delegate or International Officer position, one must: (1) be a member in continuous good standing of the Local Union, with one’s dues paid to the Local union for a period of twenty-four (24) consecutive months prior to the month of nomination for said position with no interruptions in active membership due to suspensions, expulsions, withdrawals, transfers or failure to pay fines or assessments; [and] (2) be employed at the craft within the jurisdiction of the Local Union for a period of twenty-four (24) consecutive months prior to the month of nomination.”

A period of sick leave does not constitute a failure to work at the craft so as to render the member ineligible, provided the member remains an employee of the employer and pays monthly dues timely. *Johnson*, 2006 ESD 59 (February 7, 2006).

A member on dues check-off retains his good standing even if his dues were remitted late or not at all, provided he gave a check-off authorization and had sufficient earnings in the month from which dues could have been deducted. IBT Constitution, Article X, Section 5(c); *Dunn*, E9 (October 31, 1995); *Reynozo*, 2005 ESD 18 (October 25, 2005); *aff’d*, 06 EAM 05 (January 4, 2006). We find that Imbrosciano did not have sufficient earnings during the months in question to cover his dues payment.

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Because Imbrosciano had insufficient earnings while on sick leave to fund his monthly dues obligations, he was required to make timely cash payment of those dues, which he failed to do.

Accordingly, we GRANT the protest and hold Imbrosciano INELIGIBLE to run for delegate to the 2006 IBT Convention.

Any interested party not satisfied with this determination may request a hearing before the Election Appeals Master within two (2) working days of receipt of this decision. The parties are reminded that, absent extraordinary circumstances, no party may rely upon evidence that was not presented to the Office of the Election Supervisor in any such appeal. Requests for a hearing shall be made in writing, shall specify the basis for the appeal and shall be served upon:

Kenneth Conboy
Election Appeals Master
Latham & Watkins
885 Third Avenue, Suite 1000
New York, New York 10022
Fax: (212) 751-4864

Copies of the request for hearing must be served upon the parties, as well as upon the Election Supervisor for the International Brotherhood of Teamsters, 1725 K Street, N.W., Suite 1400, Washington, D.C. 20007-5135, all within the time prescribed above. A copy of the protest must accompany the request for hearing.

Richard W. Mark
Election Supervisor

cc: Kenneth Conboy
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DISTRIBUTION LIST (BY EMAIL UNLESS OTHERWISE SPECIFIED):

Bradley T. Raymond, General Counsel
International Brotherhood of Teamsters
25 Louisiana Avenue, NW
Washington, DC 20001-2198
braymond@teamster.org

Sarah Riger, Staff Attorney
International Brotherhood of Teamsters
25 Louisiana Avenue, NW
Washington, DC 20001-2198
sriger@teamster.org

David J. Hoffa, Esq.
Hoffa 2006
30300 Northwestern Highway, Suite 324
Farmington Hills, MI 48834
David@hoffapllc.com

Barbara Harvey
645 Griswold Street
Suite 3060
Detroit, MI 48226
barbaraharvey@comcast.net

Ken Paff
Teamsters for a Democratic Union
P.O. Box 10128
Detroit, MI 48210
ken@tdu.org

Judith Brown Chomsky
P.O. Box 29726
Elkins Park, PA 19027
jchomsky@igc.org

Stephen Ostrach
1863 Pioneer Parkway East, #217
Springfield, OR 97477-3907
saostrach@gmail.com

George Daniello, President
Teamsters Local 814
33-01 28th Avenue
Long Island City, NY 11101

Vincent Imbrosciano
60-40 75th Street, 1st Floor
Middle Village, NY 11379

Steven R. Newmark
1725 K Street, NW Suite 1400
Washington, DC 20005
snewmark@ibtvote.org

Jeffrey Ellison
510 Highland Avenue, #325
Milford, MI 48381
EllisonEsq@aol.com