

**OFFICE OF THE ELECTION SUPERVISOR
for the
INTERNATIONAL BROTHERHOOD OF TEAMSTERS**

IN RE: ELIGIBILITY OF)	Protest Decision 2011 ESD 120
RICHARD ISBRECHT,)	Issued: February 18, 2011
)	OES Case No. E-039-021011-AT
Local Union 877.)	
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Gerald Cain, member of Local Union 877, filed an eligibility protest pursuant to Article XIII, Section 2(b) of the Rules for the 2010-2011 IBT International Union Delegate and Officer Election (“Rules”). The protest alleged that Richard Isbrecht was ineligible to second the nominations of Mark Pako and Joseph Maccie for alternate delegate to the IBT convention.

Election Supervisor representative Maria Ho investigated this protest.

Findings of Fact and Analysis

The *Rules* state that to be eligible to nominate or second the nomination of a candidate for delegate or alternate delegate, a member must be in good standing “with his/her dues paid through the month prior to the nominations meeting.” Article II, Section 5(h).

At Local Union 877’s nominations meeting held February 9, 2011, Isbrecht seconded the nominations of Mark Pako and Joseph Maccie for alternate delegate. Isbrecht’s dues are paid through check-off authorization with his employer, Conoco Phillips. Isbrecht took a medical leave from work beginning in Spring 2010. In May 2010, the local union placed Isbrecht on withdrawal after he missed his April and May dues payments and his employer gave notice that he was on leave. A member on withdrawal status is excused from the obligation to pay dues during the months he/she remains on withdrawal.

Local Union 877 typically returns a member to active status from withdrawal when the member’s check-off payments resume; the first check-off payment after the member returns to work is normally applied to the current month.

Isbrecht’s TITAN record shows that he was on withdrawal status with his dues paid through March 2010 at the time of the nomination meeting. The TITAN record shows that on February 11, 2011, two days after the nominations meeting, Isbrecht returned to active status and a check-off payment for January 2011 dues was credited to him. Had Isbrecht validly been on withdrawal status at the time of the nominations meeting, he would not have been in good standing and would have been ineligible to nominate or second a nomination.

However, investigation showed that Isbrecht’s check-off payments resumed in January 2011, the month before the nominations meeting. A remittance for Isbrecht’s January dues was made by the employer on January 7, 2011, but local union mistakenly posted this payment to another member’s TITAN record. The January dues payment was not posted to Isbrecht’s record

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and he was not returned to active status until the discovery of the error on February 11, two days after the nominations meeting. Because of the posting error, we credit Isbrecht as being in good standing with his dues paid through January 2011 on the date of the nominations meeting.

Accordingly, we find was Isbrecht ELIGIBLE to second the nominations of candidates for delegate or alternate delegate, and we DENY the protest challenging the validity of the nominations of Pako and Maccie.

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, NY 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, 1801 K Street, N.W., Suite 421 L, Washington, D.C. 20006, 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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