

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

IN RE: PATRICK DONOVAN and LOUIS)	Eligibility Decision 2001 EAD 124
MAINS)	Issued: February 2, 2001
)	OEA Case No. E0110112NE,
)	E0110113NE
Prospective Candidates.)	
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On January 3 and 4, 2001, Local 72 held its nomination meeting for delegate and alternate delegate elections. On January 10, 2001, Terrance Eldridge, secretary-treasurer for Local 72, filed a protest with the Election Administrator challenging the eligibility of Patrick Donovan and Louis Mains to run for delegate to the IBT International Convention. Mr. Eldridge alleges that Donovan and Mains failed to maintain their memberships in good standing for a period of 24 consecutive months.

On January 24, 2001, the protestor withdrew the protest against Mains. This decision deals with the allegations against Patrick Donovan.

Election Administrator representative Lisa Sonia Taylor investigated this protest.

Article VI, Section 1(a)(1) of the Rules for the 2000-2001 IBT International Union Delegate and Officer Election (“*Rules*”) states that in order to be eligible to run for delegate or alternate delegate to the IBT International Convention, a member must be in continuous good standing with her local union, with her dues paid to the local union for a period of 24 consecutive months prior to the month of the nomination with no interruption in active membership due to suspensions, expulsions, withdrawals, transfers or failure to pay fines or assessment.

Mr. Eldridge claimed that Donovan was one month delinquent in his dues by the end of the month prior to the nomination meeting. Donovan’s TITAN record shows that he pays his dues pursuant to checkoff authorization. The record shows that Donovan’s dues for July 1999 were not paid. Therefore, Donovan has been a month behind on his dues since that date.

Donovan stated that he believed that his dues were completely paid up. He confirmed that he missed one day of work on July 1, 1999, but returned to work after the holiday on July 5, 1999. Donovan stated that he was not aware that his employer had removed him from the payroll.

The investigator spoke with a payroll clerk and a representative from the labor relations department at Donovan’s employer. They confirmed that Donovan was not on the payroll for the first day of the first pay period of July. Donovan was, however,

reinstated on the payroll on July 6, 1999. He then worked full-time until the end of July and earned sufficient income from which dues could have been deducted.

The payroll clerk stated that an employee must be on the payroll for the first day of the first pay period of every month in order for his dues to be deducted automatically. The payroll clerk also confirmed that it is not their policy to double the payment for the next month. The representative from the labor relations department stated that the local union normally informs the member when his/her dues are not deducted. However, she was not sure whether Local 72 did this.

The office administrator at Local 72 stated that the local did not have a policy of informing members by letter when their checkoff dues were not paid. She stated that the local required members to keep informed of the rules. She also stated that the local regularly published this information in its newsletter and posted it in the union hall. Donovan disputed the fact that the local published such information. Donovan stated that he was recently made editor of the Local 72 newsletter. He claims that the local has not published the newsletter for six months.

Per the IBT Constitution, a member will retain good standing even though his dues are remitted late or not at all if he has signed a checkoff and has sufficient earnings in the month from which the employer could have deducted dues. Article, X Section 5(c). When a member has sufficient earnings but the employer fails to deduct and remit dues, the local must notify the member in writing of his employer's failure to remit the dues and require payment within thirty days. Article X, Section 5(c); *Justus*, E86 (February 20, 1996), *aff'd*, 96 EAM 107 (February 28, 1996).

Donovan's employer confirmed that he had sufficient income during July 1999 to have his dues deducted. The Election Administrator finds that by failing to send a written notice to Donovan the local did not take adequate steps to notify him of his employer's failure to remit his dues and allow him 30 days to remedy. In the absence of notification from the local union, the Election Administrator finds that Donovan was under no obligation to confirm that his dues were checked off or to make payments that his employer missed.

Accordingly, the Election Administrator finds that Mr. Donovan is ELIGIBLE to run for delegate to the International 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 Administrator in any such appeal. Requests for a hearing shall be made in writing, shall specify the basis for that appeal, and shall be served upon:

Donovan, 2001 EAD 124
January 22, 2001

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

Copies of the request for hearing must be served upon the parties listed above, as well as upon the Election Administrator for the International Brotherhood of Teamsters, 727 15th Street, N.W., 10th Floor, Washington, D.C. 20005, all within the time period prescribed above. A copy of the protest must accompany the request for hearing.



William A. Wertheimer, Jr.
Election Administrator

cc: Kenneth Conboy, Election Appeals Master
David F. Reilly, Northeast Area Regional Director

Donovan, 2001 EAD 124
January 22, 2001

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