

OFFICE OF THE ELECTION SUPERVISOR
for the
INTERNATIONAL BROTHERHOOD OF TEAMSTERS

IN RE: ELIGIBILITY OF)	
WILLIAM PACULA and)	Protest Decision 2006 ESD 68
KATHY DUFFY,)	Issued: February 7, 2006
Local 384)	OES Case No. E-06-016-012406-HQ
_____)	

Robert Keller, member and president of Local Union 384, 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*”). He alleged that William Pacula and Kathy Duffy are ineligible for election as delegate or alternate delegate to the 2006 IBT Convention under the *Rules*.

Election Supervisor representatives Steven R. Newmark and Jeffrey Ellison investigated this protest.

Findings of Fact

At the nomination meeting held January 22, 2006, Pacula and Duffy were nominated for delegate and alternate delegate, respectively. The protest alleges they are ineligible for these positions because they failed to satisfy the 24-month continuous good standing requirement.

TITAN records show that Pacula, a check-off member since August 1993, was suspended from membership for the period May 15, 2002 through February 2, 2004 because of dues arrearages. The record further shows that, upon returning from suspension, he was assessed a reinitiation fee and had dues checked off six times in two months in order to become current in his dues obligation. However, Pacula denied receiving any notice of dues arrearage or suspension from the local union. Further, he produced proof of earnings demonstrating not only that he earned sufficient wages in each month of the 24-month eligibility period to fund his monthly dues obligations, but did so in calendar 2003 as well.

Duffy timely paid dues pursuant to check-off authorization for the entire 24-month eligibility period, except for August 2005. On July 28, 2005, she took voluntary withdrawal because of illness; she deposited her withdrawal card on September 9. Therefore, she did not pay dues for August, a fact she acknowledged to our investigator.

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.”

February 7, 2006

A member will lose continuous good standing if he is validly suspended from membership during the eligibility period. *Giacumbo*, E85 (February 14, 1996), *aff'd*, 96 EAM 110 (March 1, 1996).

A member on withdrawal status generally loses continuous good standing if the withdrawal occurs within the 24-month eligibility period. *Wuorinen*, E7 (October 6, 1995). However, if the member returns from withdrawal status in the month immediately following the month when withdrawal status commenced and the member either timely pays dues for each month in cash or has sufficient earnings in each month from which the dues could be deducted, the withdrawal status will not render the member ineligible. IBT Constitution, Article IV, Section 4(a)(1).

We find that, although Pacula's TITAN record suggests he was suspended from membership for a period of time, he was never notified of any such suspension and, indeed, was earning sufficient wages each month to fund his dues obligation. Accordingly, we DENY the protest with respect to Pacula and find him ELIGIBLE to run for delegate to the 2006 IBT convention.

We find that Duffy was on honorable withdrawal for a portion of the eligibility period, with the result that her continuous good standing was broken. Accordingly, we GRANT the protest with respect to Duffy and find her INELIGIBLE to run for alternate 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
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, 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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