

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

<b>IN RE: ELIGIBILITY OF</b>	)	Protest Decision 2010 ESD 16
<b>TIM THIEL,</b>	)	Issued: August 4, 2010
<b>Local Union 948</b>	)	OES Case No. E-001-072610-FW
	)	
	)	

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Lupe Juarez, Secretary-Treasurer of Local Union 948, timely 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 Tim Thiel is ineligible for election as a delegate to the 2011 IBT Convention since he failed to pay dues for twenty-four (24) consecutive months prior to the month of the nomination meeting. Specifically, Juarez alleges that Thiel did not work during the month of December 2008 and therefore had no earnings from which dues could have been deducted. In this respect, Juarez claims that in order for Thiel to have maintained his good standing for 24 months, Thiel was obligated to pay dues on a cash basis for December 2008, which was not done.

Election Supervisor representative Kathryn A. Naylor investigated this protest.

**Findings of Fact**

The TITAN records for Thiel indicate that he has been on check-off authorization through his employer, Contadina Foods Inc., and Del Monte Foods, for the 24 months in question from July 2008 through June 2010. The nomination meeting for delegates and alternate delegates for Local Union 948 was held on July 22, 2010. The TITAN records confirm that no dues were paid for December 2008. Also, according to the TITAN records, Thiel was issued a withdrawal card on two occasions during the relevant 24-month timeframe: January 9, 2009 and December 3, 2009. On both occasions, the withdrawal cards were deposited in the same month, on January 20, 2009 and December 14, 2009, and dues check-off was made on the same date as the deposits to cover dues for January and December 2009.

Our investigation revealed that Thiel did not work during the month of December 2008. However, Thiel earned wages that month for the paid holidays of Christmas Eve, Christmas Day and New Year’s Eve. Given Thiel’s hourly rate of \$23.01, the holiday pay for these days far exceeded the \$60 remittance for monthly dues required for check-off in December 2008.

**Analysis**

Article VI, Section 1(a) 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; (2) be employed at the craft within

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the jurisdiction of the Local Union for a period of twenty-four (24) consecutive months prior to the month of nomination; and (3) be eligible to hold office if elected.

A member on dues check-off retains his good standing even if his dues were remitted late or not at all, provided he had signed a check-off authorization and had sufficient earnings or paid leave in the month from which dues could have been deducted. IBT Constitution, Article X, Section 5(c); *Dunn*, E9 (October 31, 1995); *Eligibility of John Gerow, et al.*, 2006 ESD 121 (March 2, 2006).

Here, although dues were not deducted by the employer pursuant to check-off nor otherwise paid to the local union in December 2008, the non-payment does not render Thiel ineligible because he was on check-off authorization and the holiday pay that he earned in December 2008 was sufficient wages from which dues could have been deducted by his employer. Also, we note that Thiel did not lose his good standing as a result of the withdrawal cards issued in January and December 2009 because on both occasions, he deposited the withdrawal card in the same month after receiving it and had sufficient earnings to fund dues obligations through check-off when it was deposited. *See Greishop*, 2006 ESD 139 (March 13, 2006).

Accordingly, we DENY the protest and find Thiel eligible for election as delegate or alternate delegate.

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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