

OFFICE OF THE ELECTION SUPERVISOR
for the
INTERNATIONAL BROTHERHOOD OF TEAMSTERS

IN RE: ELIGIBILITY OF)	Protest Decision 2011 ESD 97
MICHAEL ZAJAC,)	Issued: February 5, 2011
)	OES Case No. E-023-011811-NE
Local Union 317.)	
_____)		

Mark May, member of Local Union 317, 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 Michael Zajac is ineligible for nomination as a delegate or alternate delegate to the 2011 IBT convention.

Election Supervisor representative Kathryn A. Naylor investigated this protest.

Findings of Fact and 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 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.

Local Union 317 held its nominations meeting on January 15, 2011. Accordingly, the 24 month period during which candidates must be in continuous good standing in order to be eligible for nomination ran from January 2009 through December 2010.

Zajac paid dues by check-off authorization with his employer, YRC. TITAN records reflect timely checkoff remittances from YRC for the relevant 24-month period with the exception of August 2009 and April 2010. Zajac provided pay statements that confirmed that he had net earnings in August 2009 well in excess of his monthly dues obligation. It is well established that 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); *Eligibility of John Gerow, et al.*, 2006 ESD 121 (March 2, 2006). With respect to April 2010, Zajac’s TITAN records show a timely check-off remittance for April 2010 from Day and Zimmerman (and not YRC). In this respect, Zajac explained that he took vacation from YRC during this time and worked for Day and Zimmerman, a contractor at the Nine-Mile Nuclear plant that makes check-off remittances to Local Union 317. Accordingly, we find Zajac ELIGIBLE to run for delegate to the 2011 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

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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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