

FROM THE DESK OF  
DAVID RAY

August 28, 2020

Mr. J. Alan Holdcraft, Vice President  
Brotherhood of Locomotive Engineers and Trainman  
8320 Thornridge Dr.  
North Richland Hills, TX 76182

Mr. Jacob McCahill, Labor Relations Manager  
The Kansas City Southern Railway Company  
P. O. Box 219335  
Kansas City, Missouri 64121-9335

Board Members,

Enclosed are signed copies of Awards 108 - 113 and 115 - 118 of PUBLIC LAW BOARD 7239. Please sign and forward to the other party for their signature. I would appreciate it if the Carrier would send me fully signed copies for my records and handle the normal distribution to the National Mediation Board. If I can be of further assistance, please advise.

Sincerely yours,



David N. Ray, Chairman

**PUBLIC LAW BOARD 7239**

PARTIES BROTHERHOOD OF LOCOMOTIVE  
ENGINEERS AND TRAINMEN

AWARD NO. 108  
CASE NO. 108  
FILE: 2019-0492

TO

DISPUTE KANSAS CITY SOUTHERN RAILWAY COMPANY

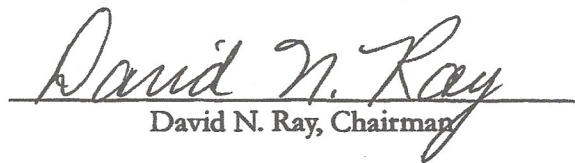
STATEMENT OF CLAIM: Claim of KCS Engineer Curtis Harper for the unwarranted discipline of 30 days suspension of which 5 days actual suspension from service (August 2, 2019 through August 6, 2019) and twenty five (25) days record suspension added to his personnel file. This claim is for all compensation lost during suspension and removal of all notations from his personal work record of discipline assessed, and an additional day's pay for attending the hearing for alleged violation restoring him as an active Locomotive Engineer for The Kansas City Southern Railway Company. He is charged with violating The Kansas City Southern Railway Company's the General Code of Operating Rules 9.5 - Where Stop Must be Made and The Kansas City Souther Railway Company's Air Brake Systems and Train Handling Rules and Instructions Rule 109.1 - Engineer Responsibilities and Certification; Engineer and Conductor Responsibilities.

FINDINGS AND OPINION: This Board finds the parties herein are the Carrier and Employee, respectively, within the meaning of the Railway Labor Act, as amended: this Board has jurisdiction over this dispute; and the parties were given due notice of the hearing.

Claimant was employed on June 1, 1998, and subsequently promoted to engineer. On August 1, 2019, Claimant was working as engineer on the MVNKC-31 operating from Mexico, Missouri to Kansas City, Missouri. A Carrier officer was informed that Claimant's train passed a red signal at the Southwest Junction in Kansas City Terminal. As a result, a hearing was held and based on the evidence, Claimant was assessed a thirty day suspension (five actual and twenty five record).

Substantial evidence supports the charges. The Organization argues there were mitigating factors as Claimant was working long hours, busy voiding a track warrant at the time and Positive Train Control was no longer in place as they were in the Yard. The Carrier argues Claimant went by a Stop signal in violation of Carrier rules. The evidence indicates the crew missed the Stop signal and Claimant put the train in emergency after seeing the misaligned switch. The discipline was issued under Carrier's discipline Policy Matrix. The Board finds no basis to overturn the Carrier's decision.

AWARD: Claim denied.

  
David N. Ray, Chairman

  
Jacob McCahill, Carrier Member

  
J. Alan Holdcraft, Employee Member

**PUBLIC LAW BOARD 7239**

PARTIES BROTHERHOOD OF LOCOMOTIVE  
ENGINEERS AND TRAINMEN

TO

AWARD NO. 109  
CASE NO. 109  
FILE: 2019-0479

DISPUTE KANSAS CITY SOUTHERN RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of KCS Engineer Chad Hawn for the unwarranted discipline of 60 days suspension of which 30 was actual suspension from service (September 16, 2019 through October 15, 2019) assessed to Engineer Hawn. This claim is for all compensation lost during suspension and removal of all notations from his personal work record of discipline assessed, and an additional day's pay for attending the hearing for alleged violation restoring him as an active Locomotive Engineer for The Kansas City Southern Railway Company. He is charged with violating the Kansas City Southern Railway Company's General Code of Operating Rules 1.1.1 - Maintaining a Safe Course and The Kansas City Souther Railway Company's General Safety Rules GS-1 -Responsibilities and Rule GS-16- Electrical Safety.

FINDINGS AND OPINION: This Board finds the parties herein are the Carrier and Employee, respectively, within the meaning of the Railway Labor Act, as amended: this Board has jurisdiction over this dispute; and the parties were given due notice of the hearing.

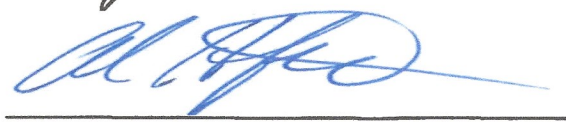
Claimant was employed on April 11, 1995, and subsequently promoted to engineer. On July 26, 2019, Claimant was working as engineer on the YES305-26 working in East Saint Louis, Illinois. A Carrier officer was informed that Claimant was injured. An investigation revealed Claimant was working on the electrical housing of a light on his engine when he was shocked. As a result, a hearing was held and based on the evidence, Claimant was assessed a sixty day suspension (thirty actual and thirty record).

Substantial evidence supports the charges. The Organization argues Claimant as a former supervisor was trained to perform the work involved in changing a light bulb. Claimant states he was merely trying to change a light bulb. The Carrier argues Claimant was an engineer and as such was not authorized to do electrical work. The evidence indicates Claimant was performing electrical work without authorization resulting in an accident and Claimant being transported to the hospital. The Hearing Officer determines credibility and found Claimant's testimony to be self-serving. The discipline was issued under Carrier's discipline Policy Matrix. The Board finds no basis to overturn the Carrier's decision.

AWARD: Claim denied.

  
David N. Ray, Chairman

  
Jacob McCahill, Carrier Member

  
J. Alan Holdcraft, Employee Member

**PUBLIC LAW BOARD 7239**

PARTIES      BROTHERHOOD OF LOCOMOTIVE  
                 ENGINEERS AND TRAINMEN  
                 TO  
DISPUTE      KANSAS CITY SOUTHERN RAILWAY COMPANY

AWARD NO. 110  
CASE NO. 110  
FILE: 2019-0532

STATEMENT OF CLAIM: Claim of KCS Engineer Shaun Jones for the unwarranted discipline of 30 days suspension of which 5 will be actual suspension from service (September 30, 2019 through October 4, 2019) and twenty five (25) days record suspension added to his personnel file. This claim is for all compensation lost during suspension and removal of all notations from his personal work record of discipline assessed, and an additional day's pay for attending the hearing for alleged violation restoring him as an active Locomotive Engineer for The Kansas City Southern Railway Company. He is charged with violating the Kansas City Souther Railway Company's Air Brake Systems and Train Handling Rules and Instructions 101.14 - Securing Equipment.

FINDINGS AND OPINION: This Board finds the parties herein are the Carrier and Employee, respectively, within the meaning of the Railway Labor Act, as amended: this Board has jurisdiction over this dispute; and the parties were given due notice of the hearing.

Claimant was employed on February 26, 2001, and subsequently promoted to engineer. On August 12, 2019, Claimant was engineer on the LAR201-12, a local operating out of Artesia, Mississippi. Carrier supervisors at Meridian, Mississippi observed the crew perform an improper securement test. As a result, a hearing was held, and based on the evidence, Claimant was assessed a thirty day suspension, of which five days were served.

The evidence developed in the hearing confirms that Claimant violated Carrier's rules. The Organization argues that the crew never left the cut unattended and a securement test was not needed. The record indicates a proper securement test was not performed as there was no release of the brakes for the required one minute to test for undesired movement. The cut was left unattended as the brakeman was lining switches, one of which was near the yard office five car lengths from the rear of the cut. Claimant stated he tried to contact the brakeman to see what he was doing but the brakeman didn't answer the radio. The brakeman stated he was not told to stay with the cut. The discipline was issued under Carrier's discipline Policy Matrix. We find no basis to overturn the Carrier's decision.

AWARD: Claim denied.

  
\_\_\_\_\_  
David N. Ray, Chairman

  
\_\_\_\_\_  
Jacob McCahill, Carrier Member

  
\_\_\_\_\_  
J. Alan Holdcraft, Employee Member

**PUBLIC LAW BOARD 7239**

PARTIES BROTHERHOOD OF LOCOMOTIVE  
ENGINEERS AND TRAINMEN

TO

AWARD NO. 111  
CASE NO. 111  
FILE: 2019-0533

DISPUTE KANSAS CITY SOUTHERN RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of KCS Conductor Bennie Aaron for the unwarranted discipline of 30 days suspension of which 5 will be actual suspension from service (September 30, 2019 through October 4, 2019) and twenty five (25) days record suspension added to his personnel file. This claim is for all compensation lost during suspension and removal of all notations from his personal work record of discipline assessed, and an additional day's pay for attending the hearing for alleged violation of The Kansas City Southern Railway Company's Air Brake Systems and Train Handling Rules and Instructions 101.14 - Securing Equipment.

FINDINGS AND OPINION: This Board finds the parties herein are the Carrier and Employee, respectively, within the meaning of the Railway Labor Act, as amended: this Board has jurisdiction over this dispute; and the parties were given due notice of the hearing.

n the  
ssippi  
ed on

the evidence, Claimant was assessed a thirty day suspension, of which five days were served.

The evidence developed in the hearing confirms that Claimant violated Carrier's rules. The Organization argues that the crew never left the cut unattended and a securement test was not needed. The record indicates a proper securement test was not performed as there was no release of the brakes for the required one minute to test for undesired movement. The cut was left unattended as the brakeman was lining switches, one of which was near the yard office five car lengths from the rear of the cut. Claimant stated he tried to contact the brakeman to see what he was doing but the brakeman didn't answer the radio. Claimant stated he assumed the brakeman was at the rear of the cut. The brakeman stated he was not told to stay with the cut. The discipline was issued under Carrier's discipline Policy Matrix. We find no basis to overturn the Carrier's decision.

AWARD: Claim denied.

  
David N. Ray, Chairman

  
Jacob McCahill, Carrier Member

  
J. Alan Holdcraft, Employee Member

**PUBLIC LAW BOARD 7239**

PARTIES BROTHERHOOD OF LOCOMOTIVE  
ENGINEERS AND TRAINMEN

AWARD NO. 112  
CASE NO. 112  
FILE: 2019-0567

TO

DISPUTE KANSAS CITY SOUTHERN RAILWAY COMPANY

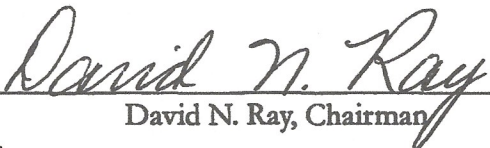
STATEMENT OF CLAIM: Claim of KCS Conductor Garrett Hester for the unwarranted discipline of 60 days suspension of which 30 was actual suspension from service (October 21, 2019 through November 19, 2019) and thirty (30) record suspension added to his personnel file. This claim is for all compensation lost during suspension and removal of all notations from his personal work record of discipline assessed, and an additional day's pay for attending the hearing for alleged violation of The Kansas City Southern Railway Company's Safety Rules , Transportation Department Y-1- Getting On and Off Cars and Locomotives.

FINDINGS AND OPINION: This Board finds the parties herein are the Carrier and Employee, respectively, within the meaning of the Railway Labor Act, as amended: this Board has jurisdiction over this dispute; and the parties were given due notice of the hearing.


Claimant was employed on November 1, 2004. On August 26, 2019, Claimant was working as conductor on the R-JA221-26 working in Jackson, Mississippi. A Carrier officer saw Claimant get on a moving tank car without dual handholds. As a result, a hearing was held and based on the evidence, Claimant was assessed a sixty day suspension (thirty actual and thirty record).

Substantial evidence supports the charges. The Organization argues this was an emergency situation caused by Claimant sending the car down the wrong track. Claimant states he was trying to prevent potential damage. While making a switching move, the crew released a tank car down track 10 in Jackson Yard. Track 10 was clear and the tank car was moving with nothing to stop its movement. Claimant went down the stairs of the tower, got in an ATV and went down the switching lead in an attempt to catch the tank car. Claimant caught the tank car while it was moving and secured it with a hand brake. Claimant's actions may have prevented damage, but Claimant boarded the tank car, which was not equipped with dual handholds, while it was moving in violation of Carrier rules. The discipline was issued under Carrier's discipline Policy Matrix. The Board finds no basis to overturn the Carrier's decision.

AWARD: Claim denied.

  
David N. Ray, Chairman

  
Jacob McCahill, Carrier Member

  
J. Alan Holdcraft, Employee Member

**PUBLIC LAW BOARD 7239**

PARTIES      BROTHERHOOD OF LOCOMOTIVE  
                 ENGINEERS AND TRAINMEN  
                 TO

AWARD NO. 113  
CASE NO. 113  
FILE: 2019-0568

DISPUTE      KANSAS CITY SOUTHERN RAILWAY COMPANY


STATEMENT OF CLAIM: Claim of KCS Brakeman Beau Brewer for the unwarranted discipline of letter of reprimand added to his personnel file. This claim is for removal of all notations from his personal work record of discipline assessed, and an additional day's pay for attending the hearing for alleged violation of The Kansas City Southern Railway Company's General Code of Operating Rules 7.1 -Switching Safely and Efficiently and GCOR Rule 7.7 - Kicking or Dropping Cars amended by System Special Instructions.

FINDINGS AND OPINION: This Board finds the parties herein are the Carrier and Employee, respectively, within the meaning of the Railway Labor Act, as amended: this Board has jurisdiction over this dispute; and the parties were given due notice of the hearing.

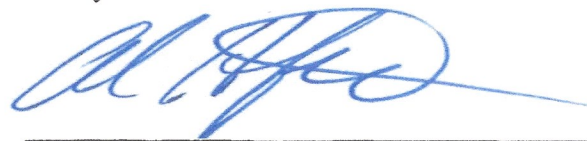
Claimant was employed on January 20, 2014. On August 26, 2019, Claimant was working as brakeman on the R-JA221-26 in Jackson, Mississippi. A Carrier officer saw Claimant release a block of six cars at one time down the lead track. As a result, a hearing was held and based on the evidence, Claimant was assessed a letter of reprimand.

Substantial evidence supports the charges. System Special Instructions states that no more than five cars are permitted to be dropped or kicked in one block. Claimant states he miscounted. The discipline was issued under Carrier's discipline Policy Matrix. The Board finds no basis to overturn the Carrier's decision.

AWARD: Claim denied.

  
\_\_\_\_\_  
David N. Ray, Chairman

  
\_\_\_\_\_  
Jacob McCahill, Carrier Member

  
\_\_\_\_\_  
J. Alan Holdcraft, Employee Member

## PUBLIC LAW BOARD 7239

PARTIES      BROTHERHOOD OF LOCOMOTIVE  
                 ENGINEERS AND TRAINMEN  
                 TO  
DISPUTE      KANSAS CITY SOUTHERN RAILWAY COMPANY

AWARD NO. 115  
CASE NO. 115  
FILE: 2019-0733


STATEMENT OF CLAIM: Claim of KCS Engineer William Brand for the unwarranted discipline of 30 days suspension of which 5 day actual suspension from service (November 9, 2019 through November 9, 2019) and twenty five (25) days record suspension added to his personnel file. This claim is for all compensation lost during suspension and removal of all notations from his personal work record of discipline assessed, and an additional day's pay for attending the hearing for alleged violation of The Kansas City Southern Railway Company's Air Brake Systems and Train Handling Rules and Instructions 108.2.1 - Emergency Application Capability from Rear of Train; Loss of Emergency Application Capability from Rear of Train and ABTH Rule 109.1 - Engineer Responsibilities and Certification; Engineer and Conductor Responsibilities.

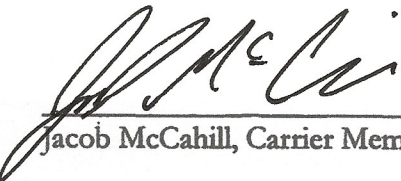
FINDINGS AND OPINION: This Board finds the parties herein are the Carrier and Employee, respectively, within the meaning of the Railway Labor Act, as amended: this Board has jurisdiction over this dispute; and the parties were given due notice of the hearing.


Claimant was employed on April 12, 2004, and subsequently promoted to engineer. On November 2, 2019, Claimant was engineer on the I-ATDA2-02, operating from Meridian, Mississippi to Shreveport, Louisiana. Carrier received an alert that Claimant exceeded the maximum authorized speed at or near Milepost 137.1 in Meridian, Mississippi. As a result, a hearing was held, and based on the evidence, Claimant was assessed a thirty day suspension, of which five days were served.

The evidence developed in the hearing confirms that Claimant violated Carrier's rules. The Organization argues that the crew never knew the EOT was disarmed as the crew they relieved said everything was good to go. The Locomotive Engineer screen has a box that would have said EOT emergency enabled or disabled. The screen indicated that the crew did not have the ability to place the train in emergency from the rear of the train, thus placing a speeding restriction on the train which was exceeded at various locations. Claimant questions the information available on his screen was the same as indicated on the download. The Hearing Officer determines credibility and found Claimant's testimony to be self-serving. The discipline was issued under Carrier's discipline Policy Matrix. We find no basis to overturn the Carrier's decision.

AWARD: Claim denied.

  
\_\_\_\_\_  
David N. Ray, Chairman

  
\_\_\_\_\_  
Jacob McCahill, Carrier Member

  
\_\_\_\_\_  
J. Alan Holdcraft, Employee Member



**PUBLIC LAW BOARD 7239**

PARTIES BROTHERHOOD OF LOCOMOTIVE  
ENGINEERS AND TRAINMEN

TO

AWARD NO. 116  
CASE NO. 116  
FILE: 2019-0736

DISPUTE KANSAS CITY SOUTHERN RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of KCS Engineer Reginald Owens for the unwarranted discipline of 60 days suspension of which 30 was actual suspension from service (November 9, 2019 through December 8, 2019) and thirty days (30) record suspension added to his personnel file. This claim is for all compensation lost during suspension and removal of all notations from his personal work record of discipline assessed, and an additional day's pay for attending the hearing for alleged violation of The Kansas City Southern Railway Company's Air Brake Systems and Train Handling Rules and Instructions 108.2.1 - Emergency Application Capability from Rear of Train; Loss of Emergency Application Capability from Rear of Train and ABTH Rule 109.1 - Engineer Responsibilities and Certification; Engineer and Conductor Responsibilities.

FINDINGS AND OPINION: This Board finds the parties herein are the Carrier and Employee, respectively, within the meaning of the Railway Labor Act, as amended: this Board has jurisdiction over this dispute; and the parties were given due notice of the hearing.

Claimant was employed on October 16, 2000, and subsequently promoted to engineer. On November 2, 2019, Claimant was engineer on the I-ATDA2-02, operating from Jackson, Mississippi to Shreveport, Louisiana. Carrier received an alert that Claimant exceeded the maximum authorized speed on the Meridian Subdivision. As a result, a hearing was held, and based on the evidence, Claimant was assessed a sixty day suspension, of which thirty days were served.

The evidence developed in the hearing confirms that Claimant violated Carrier's rules. The Organization argues that the crew never knew the EOT was disarmed as the crew they relieved said everything was good on the train. The Locomotive Engineer screen has a box that would have said EOT emergency enabled or disabled. The screen indicated that the crew did not have the ability to place the train in emergency from the rear of the train, thus placing a speeding restriction on the train which was exceeded at various locations. Claimant states he did not pay attention to the EOT not being on and a cup holder was blocking his view of the screen where it would have indicated the EOT emergency function was disabled. The discipline was issued under Carrier's discipline Policy Matrix. We find no basis to overturn the Carrier's decision.

AWARD: Claim denied.

  
David N. Ray, Chairman

  
Jacob McCahill, Carrier Member

  
J. Alan Holdcraft, Employee Member

**PUBLIC LAW BOARD 7239**

PARTIES      BROTHERHOOD OF LOCOMOTIVE  
                 ENGINEERS AND TRAINMEN  
                 TO

AWARD NO. 117  
CASE NO. 117  
FILE: 2019-0755

DISPUTE      KANSAS CITY SOUTHERN RAILWAY COMPANY

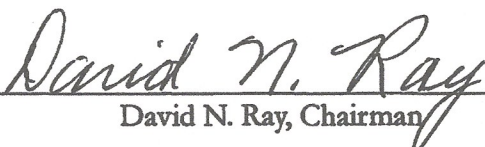
STATEMENT OF CLAIM: Claim of KCS Engineer Bryan Cleveland for the unwarranted discipline of two (2) points under the Availability Policy added to his personnel file. This claim is for removal of these points and payment for one day to attend the investigation for alleged violation of The Kansas City Southern Railway Company's General Code of Operating Rules 1.15 - Duty - Reporting or Absence and The Kansas City Southern Railway Company's System Circular s No. 001 - Availability Policy for Train, Engine, & Yard (TE&Y) Employees.

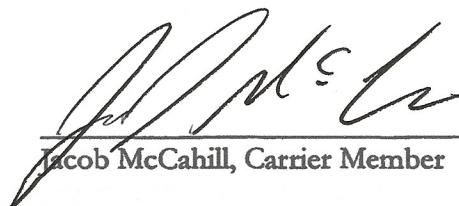
FINDINGS AND OPINION: This Board finds the parties herein are the Carrier and Employee, respectively, within the meaning of the Railway Labor Act, as amended: this Board has jurisdiction over this dispute; and the parties were given due notice of the hearing.

Claimant was employed on February 28, 2011, and was subsequently promoted to engineer. On November 16, 2019, while working as an engineer on a pool turn out of East Saint Louis, Illinois, Claimant was charged with being in violation of Carrier's attendance policy between August 10, 2019 and November 8, 2019. As a result, a hearing was scheduled and based on the evidence, Claimant was assessed two points.

The evidence developed in the hearing confirms that Claimant violated Carrier's policy. The Organization argues that the discipline is excessive and is mitigated by Claimant's approval of FMLA after the period of review. Claimant had a total of eight uncompensated layoffs which affected 25 days of availability and included eight weekends. Claimant had medical documentation for some of the absences. Claimant's pattern of weekend layoffs indicates the layoffs were not all medically necessary. The Board finds no reason to overturn the Carrier's decision.

AWARD: Claim denied.

  
\_\_\_\_\_  
David N. Ray, Chairman

  
\_\_\_\_\_  
Jacob McCahill, Carrier Member

  
\_\_\_\_\_  
J. Alan Holdcraft, Employee Member

**PUBLIC LAW BOARD 7239**

PARTIES BROTHERHOOD OF LOCOMOTIVE  
ENGINEERS AND TRAINMEN  
TO

AWARD NO. 118  
CASE NO. 118  
FILE: 2019-0814

DISPUTE KANSAS CITY SOUTHERN RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of KCS Engineer John Perdun for the unwarranted discipline of 60 days suspension of which 30 was actual suspension from service (January 1, 2020 through January 30, 2020) and thirty days (30) record suspension added to his personnel file. This claim is for all compensation lost during suspension and removal of all notations from his personal work record of discipline assessed, and an additional day's pay for attending the hearing for alleged violation of The Kansas City Southern Railway Company's General Air Brake Systems and Train Handling Rules and Instructions 104.3.3 - Independent Brake.

FINDINGS AND OPINION: This Board finds the parties herein are the Carrier and Employee, respectively, within the meaning of the Railway Labor Act, as amended: this Board has jurisdiction over this dispute; and the parties were given due notice of the hearing.

Claimant was employed on December 9, 2013, and subsequently promoted to engineer. On November 25, 2019, Claimant was extra engineer on the LRH101-25, operating out of East Saint Louis, Illinois. Carrier received an alert that Claimant's train had a possible power overspeed event at Carrollton, Illinois. As a result, a hearing was held, and based on the evidence, Claimant was assessed a sixty day suspension, of which thirty days were served.

The evidence developed in the hearing confirms that Claimant violated Carrier's rules. The Organization argues the discipline was excessive in that Claimant as a relatively young engineer encountered a problem for the first time and made a mistake. The Positive Train Control system placed the train in emergency as a result of wheel slippage. Claimant did not continue to bail off the independent brake and as a result the engine wheels developed flat spots. The discipline was issued under Carrier's discipline Policy Matrix. We find no basis to overturn the Carrier's decision.

AWARD: Claim denied.

  
David N. Ray, Chairman

  
Jacob McCahill, Carrier Member

  
J. Alan Holdcraft, Employee Member