

**THE PUBLIC REVIEW BOARD
INTERNATIONAL UNION, UAW**

APPEAL OF:

BOB KING AND JOE CHARNEY,
Appellants

-vs-

CASE NO. 1459 II

UAW LOCAL UNION 600
(Dearborn, Michigan)
REGION 1A
(THE UNITED AUTOMOBILE, AEROSPACE
AND AGRICULTURAL IMPLEMENT
WORKERS OF AMERICA),
Appellee.

DECISION

(Issued June 22, 2004)

PANEL SITTING: Prof. Theodore J. St. Antoine, Chairperson,
Prof. Benjamin Aaron, Prof. Janice R.
Bellace, Prof. James J. Brudney, Prof. James
E. Jones, Jr., and Prof. Paul C. Weiler.

Bob King and Joe Charney charge that improprieties affected the outcome of the general elections conducted by UAW Local 600 on May 1 and 2, 2002, and that their protests and appeals were not processed appropriately in accordance with the International Constitution.

FACTS

Bob King and Joe Charney were candidates in the general elections conducted by UAW Local 600 on May 1 and 2, 2002. Joe Charney ran for president with the following results:

President:

1.	Jerry Sullivan	7187 (Elected)
2.	Joe Charney 2065	
	Voids and Blanks	725
	Total	9977 ¹

¹ Record, p. 83.

King was a candidate for Financial Secretary. That contest produced the following results:

Financial Secretary:

1. Russ Leone 5408 (Elected)
 2. Bob King 3409
- Voids and Blanks 1160
Total 9977²

Previously, on March 9, 2002, Charney had filed an appeal with the Local 600 General Council protesting the manner by which the Election Committee members were selected. Charney charged that the Election Committee members had been appointed rather than elected in a Local-wide election conducted as required by Article 38, §10(a) and (c), of the International Constitution. Charney wrote:

“The minutes of the Local 600 General Council meetings infer that the referenced committee was inappropriately appointed and not subjected to a constitutionally accepted election procedure that would include all Local 600 members being afforded the opportunity to be a candidate for the election and to participate in the voting for same.”³

Charney warned that the failure of the Local to elect its Election Committee could prompt a successful challenge to the general elections scheduled for May, which would be tremendously costly for the Local.

On April 4, 2002, Local 600 Recording Secretary Rory Gamble advised Charney that his appeal dated March 9, 2002, came before the General Council on April 3, and that the General Council found it to be untimely in accordance with Article 33, §4(b) and (c), of the Constitution.⁴ Charney appealed the General Council’s ruling to the International Executive Board (IEB) on April 8, 2002. Charney argued that the untimeliness ruling had no relevance to his appeal. He stated:

“...The fact still remains that the Local 600, 2002 elections are being supervised by the Local Officers’ hand-picked functionaries, and were not democratically elected as called for in Article 38, §10(a) and (c), or Article 8, §21, of the Constitution.”⁵

² Record, p. 83.

³ Record, p. 11.

⁴ Record, p. 28.

⁵ Record, p. 30. Charney was also a candidate for Convention delegate from the Tool and Die Unit, hence his reference Article 8, §21.

On April 15, 2002, Charney forwarded a copy of the General Council meeting minutes of March 4, 2002, to the IEB to support his contention that the upcoming elections were not being conducted by a democratically elected Election Committee as required by Article 38, §10(c), of the Constitution. The minutes report:

“Russ read the rules for the election. The positions are for 3 years. The Joint Conference is June 3, 2002, to June 10, 2002.

Election will be May 1, 2002, and May 2, 2002, other designations will be notified of time and locations. Russ also read positions for how many delegates.”⁶

Charney pointed out that the minutes do not indicate that the rules read to the General Council had been adopted by a democratically elected Election Committee as required by Article VIII, §1(a) of the Local Union’s Bylaws.⁷

On June 26, 2002, Presidential Administrative Assistant Eunice Stokes-Wilson responded to Charney’s appeal from the ruling of the Local 600 General Council that his March 9, 2002, appeal was untimely.⁸ She advised Charney that the Local Union maintained that the Election Committee was elected by the General Council at a meeting on August 6, 2001. She pointed out that under the Local 600 Bylaws and Article 35 of the International Constitution, the Joint Council of Local 600 has the authority to serve as the membership and therefore to elect the Election Committee. She asked Charney if he still wished to pursue his appeal over the Election Committee issue.⁹ In response, Charney referred to a fifteen page enclosure that he had filed with his appeal.¹⁰

⁶ Record, p. 39.

⁷ Record, p. 33. Article VIII, §1(a) of the UAW Local 600 Bylaws provides, in pertinent part, as follows:

“An Election Committee shall be elected from and by the General Council at the same time and in the same manner as the General Council Committees of Local 600. Such Election Committee shall conduct and supervise all elections, or series of elections, held in Local 600, in the election of Local Officers, General Council Committees, or any elections held in a Local referendum. Where the election of Local Officers, the Unit Officers, Unit Bargaining committees, and Unit District Committees, or other elections are held jointly, the General Council Election Committee shall supervise such election. Such Election Committee shall establish rules, not inconsistent with these Bylaws or with the International Constitution, governing the conduct of the election, which rules shall first be submitted to, and approved by, the General Council...”

⁸ Stokes-Wilson explained to Charney that his appeal dated April 8, 2002, had been misfiled among papers and correspondence submitted by Bob King. (Record, p. 129)

⁹ Record, p. 129.

¹⁰ This is apparently a reference to the fifteen enclosures that Charney referred to in his April 8 appeal. The enclosures include all of the prior correspondence relating to his appeal. (Record, pp. 1, 11-18, 23-34, 26-29)

Stokes-Wilson replied to Charney on July 19, 2002. She said that the International had determined that no further action was warranted on his appeal regarding the Local Election Committee. Stokes-Wilson pointed out that Charney had not produced any evidence to contradict the Local Union's assertion that the election of the Election Committee members took place on August 6, 2001, and that it was Charney's burden as the appellant to present evidence that the election took place at some other time.¹¹ Accordingly, Stokes-Wilson affirmed the General Council's determination that Charney's appeal on this issue was untimely.

Charney appealed Stokes-Wilson's ruling to the IEB on July 23, 2002.¹² On August 21, Charney submitted a copy of the minutes of the General Council meeting that took place August 6, 2001, to support his appeal. Charney pointed out that there is no reference in the General Council minutes to an Election Committee election.¹³ Charney sent an inquiry to the IEB on January 2, 2003, and again on March 27, 2003, about the status of the appeal he had initially filed on April 8.¹⁴ There is no response to these inquiries in the record.

On March 28, 2002, Charney filed a second appeal with the Local 600 General Council protesting the use of the Local Union's newspaper by the Local's officers to promote their candidacies in the upcoming elections. Charney attached to his appeal a copy of a notice of the upcoming election of officers and convention delegates which also displayed photographs of the incumbent officers. Charney stated:

"...I point out that there is no credible nonpolitical literary association between the contents of the front page and the Local Officers.

I further bring to your attention that the president's likeness is duplicated on the first front page. I suggest that the editor of the Local paper, under the influence of the President, has covertly allowed the Local Union Official Publication to be used to promote the candidacies of the current officers..."¹⁵

Charney charged that the use of the Local Union newspaper to promote the incumbent officers' election violated Title IV of the LMRDA.

¹¹ Record, p. 134.

¹² Record, pp. 135-136.

¹³ Record, p. 145.

¹⁴ Record, pp. 159, 175.

¹⁵ Record, p. 19.

On April 17, 2002, Charney and King sent a letter to the Local 600 Election Committee requesting permission to inspect the official list of Local 600 members on April 17, 2002.¹⁶ King did inspect the list on April 24, but Charney did not. On April 25, Recording Secretary Russell Leone wrote to King and thanked him for pointing out some errors in the list. Leone invited King to review the corrected list.¹⁷ On April 30, Charney wrote to the Election Committee stating that he had been denied his right to inspect the polling list on April 29. He charged that this was an unfair election practice.¹⁸

King and Charney sent a second letter to the Election Committee on April 17, requesting a list of the specific locations where Local 600 members are employed and reasonable directions to the locations for campaigning purposes.¹⁹ A list of locations outside the Rouge Plant where Local 600 members are employed was sent to King on April 29.

On April 19, 2002, King filed a complaint with the Local 600 Election Committee about a campaign leaflet that contained the phrase: "Elect the Jerry Sullivan Unity Team, unanimously endorsed by the Local 600 Retiree Chapter Offices and Executive Board."²⁰ King charged that the leaflet constituted an unfair election practice, since the opposing candidates had not had an equal opportunity to seek the endorsement of the Local 600 Retiree Chapter. On April 27, King and Charney forwarded more campaign leaflets to the Election Committee. King and Charney charged that the leaflets had been prepared and distributed by individuals on the Local Union payroll during their hours of employment in violation of the Local Union Bylaws, the Guide to Local Union Elections, and LMRDA.²¹ King sent another letter complaining about candidates campaigning while on the Local Union's payroll on April 29. In addition, King charged that Vice President Johnny Vawters was observed passing out slanderous leaflets while on the Local Union payroll.²²

On May 6, 2002, King and Charney presented a protest to the May 1 and 2 elections to the Local 600 General Council. As grounds for their protest, King and Charney alleged that the Local did not have a democratically elected Election Committee as required by Article 38, §10 (c), and Article 8, §21, of the International Constitution. They claimed that they were denied an equal opportunity to distribute campaign materials, and that unfair and fraudulent election practices were committed by

¹⁶ Record, p. 42

¹⁷ Record, p. 50.

¹⁸ Record, p. 65.

¹⁹ Record, p. 43.

²⁰ Record, pp. 46, 48.

²¹ Record, p. 56.

²² Record, p. 63.

the incumbent candidates. They also charged that inappropriate polling or membership lists were used. King and Charney asked that the Local 600 officers' election be rerun.²³

The minutes of the Local 600 Executive Board meeting held on May 28, 2002, indicate that three protests submitted by Bob King were read, and that the Executive Board voted to deny them.²⁴ The minutes of the General Council meeting for May 28 report the following action:

“ELECTION COMMITTEE: Al Holmes

He went through the election results: run-off election, recount, and constitution convention.

Al Holmes read all appeals. Bob King submitted 8 complaints regarding an unfair election, he was complaining about J. Vawters, R. Leone, J. Horton, A. Wilson, and B. Williams. All of the letters were answered.

Appeal letters from J. Charney, B. King, and K. Collier were received and all were answered.

There were 6 protests on the primary election from J. Brown, H. Wener, B. Ford and R. Enriquez.

He also read information regarding recount.

Received a complaint for run-off election from John Brown.

Motion to adopt report Supported & Carried.”²⁵

The Local 600 Election Committee responded to the various complaints and protests that had been filed by Charney and King prior to the election in separate letters. On June 18, 2002, King forwarded these letters to the IEB with the following statement:

“The enclosed self-explanatory correspondence indicating a strategy of summarily, without reasonable due process, disposing of these separate appeal matters and completely ignoring the election challenge document dated May 6, 2002, (see enclosed) forces me to appeal these two issues for your due process consideration, so as to in my opinion protect the integrity of the election challenge and protest.”²⁶

²³ Record, pp. 78-79.

²⁴ Record, pp. 108-109.

²⁵ Record, pp. 115-116.

²⁶ Record, p. 125.

King and Charney wrote to Recording Secretary Gamble on June 19, 2002, that the Local Union newspaper had reported that the General Council had certified the election results as official on May 28, 2002. They claimed that it was improper for the General Council to certify the election results before ruling on their protest. They stated:

“The failure of the Council to be presented with and give consideration to our election challenge/protest prior to certifying the election results raises the issue of a possible violation of Article 33, §4, of the International Constitution. It is our contention, supported by precedent, that our appeal was timely, in order, and should have been acted on by the Council at the May 28, 2002, meeting in accordance with Article 38 §11, of the International Constitution. Further we contend that the Council’s actions in this case were inadvisable and contrary to established practice, which requires such protests to be voted up or down by the membership or in this case by the General Council.”²⁷

On August 7, 2002, Charney and King asked the IEB to direct the Local to process their appeals. On August 10, Charney appealed the General Council’s alleged failure to act on their protest to the IEB. King and Charney also continued to press the Local General Council for a decision. On August 13, 2002, King and Charney wrote to the Local General Council that their protest to the election had never been properly processed. They stated:

“...It has been made obvious by the May 28, 2002, minutes, (see enclosed excerpts) that the required rational procedure was not followed. (Holmes appeared to mention the appeals/complaints as an aside).”²⁸

Recording Secretary Al Murlone responded to this letter on September 18. He stated:

“Mr. Al Holmes of the Local 600 Election Committee read your appeals at the May 28, 2002, General Council meeting, hence, they were not heard at the September 4, 2002, General Council meeting. Therefore, no action was taken pursuant to Article 33, §4(c), Time Limits for Appeals.”²⁹

King and Charney appealed this ruling to the IEB on September 21, 2002.³⁰

²⁷ Record, p. 127.

²⁸ Record, p. 144.

²⁹ Record, p. 153.

³⁰ Record, p. 154

The IEB took no action on the appeal, however, and on June 2, 2003, King wrote to Stokes-Wilson to find out the status of the matter.³¹ Stokes-Wilson responded on June 5, that the International Union was waiting for the Department of Labor to rule on King's complaint to it regarding the May election before proceeding. Stokes-Wilson stated:

“...It has been the long standing policy of the International Executive Board that election appeals not be considered in two separate and distinct venues at the same time.”³²

King appealed this ruling to the Public Review Board on June 26, 2003. We issued a Notification of Pending Appeal on October 4, 2003. On November 25, Stokes-Wilson requested that the matter be remanded for an investigative hearing and presentation to the IEB. The appeal was remanded to the IEB on January 7, 2004.

Presidential Administrative Assistant Gary Bryner issued a report on King's and Charney's appeal for the IEB based on the materials in the record and statements supplied by the officers of Local 600.³³ On the subject of the Election Committee election, Bryner reported that the Local Union had explained that the Election Committee was elected by acclamation at a General Council meeting in August 2001. Recording Secretary Rory Gamble submitted the following statement to hearing officers Bryner and Patton on February 9, 2004:

“The Standing Committees of the General Council consist of five members. The Council members are solicited via acceptance form (see enclosure) to select which committee they wish to sit on. Where there are six or more selections, we hold an election for that committee. If there are five or less, the committee is elected by acclamation. In the case of August 2001 General Council Committee Election, all committees were elected by acclamation. This action was

³¹ King and Charney continued to correspond with the International Union regarding the status of their appeals after September 21. King also began writing letters to the Public Review Board concerning the International Union's failure to respond to his appeal. (Record, pp. 146, 148, and 155) After being contacted by PRB Executive Director David Klein on December 13, 2002, Administrative Assistant Stokes Wilson wrote to King and acknowledged the appeal that Charney had filed on August 10, 2002, protesting the General Council's alleged failure to act on Charney's and King's election protest of May 6, 2002. (Record, p. 156) King responded to Stokes-Wilson on December 31 that he had not filed any appeals dated August 10. (Record, p. 158) King continued to write to the PRB concerning the status of his appeal throughout the first half of 2003.

³² Record, p. 181.

³³ Bryner scheduled a hearing on King's appeal for February 5, 2004. On February 9, however, Charney and King wrote to the PRB claiming that Bryner had been verbally abusive and disrespectful, and as a result they had left the hearing after fifty minutes. (Record, p. 246)

confirmed in my August report to the General Council and reflected in minutes of the same.³⁴

The General Council minutes for August 6, 2001, do not refer to the election of the General Council standing committees. There is an amendment attached to the minutes which states as follows:

“The correction of the August 2001 General Council Minutes is listed below:

All General Council Committees were elected by acclamation. Chairpersons and Recording Secretaries of each committee will be confirmed by the September General Council Meeting.³⁵

Local 600 Recording Secretary Al Murlone addressed the following note to Administrative Assistant Bryner attached to a copy of the August 6, 2001, General Council Minutes:

A correction in the 8-6-01 General Council minutes was made on Aug. 02. See attachment.³⁶

Bryner’s report indicates that nine members originally signed up for the Election Committee, but that four withdrew their acceptances after being informed that they could not serve on the Election Committee if they were actively seeking office. That left five members, so no election was necessary. Ultimately, two of the members resigned, leaving the three individuals who actually served as the Election Committee.³⁷

Bryner wrote that the Local Union representatives had stated that it has been the custom at UAW Local 600 over the past forty years to place the pictures of the Local Union’s officers across the top of the Local’s newspaper, *Local 600 Facts*. Furthermore, the Local representatives pointed out that the Department of Labor found nothing wrong with the practice when they investigated a similar charge in connection with the 1999 election.³⁸

Bryner’s report indicates that the errors on the membership list that King identified were corrected. He stated that both King and Charney met with the Local Election Committee on April 29 to review the corrections. At this time, he said, the

³⁴ Record, p. 241.

³⁵ Record, p. 9.

³⁶ Record, p. 2.

³⁷ Record, p. 223.

³⁸ Record, p. 224.

Election Committee informed King and Charney that the polling list had already been sent to the CPA and so was not available. Bryner noted that neither appellant went to the CPA's office to inspect the corrected list.³⁹

Bryner reported that the Local Election Committee had investigated King's and Charney's complaints about unfair election practices and found no evidence that people were campaigning while on the Local Union payroll. Bryner noted in his conclusion that the minutes of the May 28 General Council meeting report that candidate Johnny Vawters had taken a week of vacation to campaign.⁴⁰ Bryner also concluded that the campaign material distributed by the Jerry Sullivan Unity team was not paid for by the Local and did not constitute an unfair election practice.⁴¹ Bryner denied the appellants' request for a new election. The IEB adopted Bryner's report as its decision and notified King and Charney on February 16, 2004. King and Charney have now appealed the IEB's decision.

ARGUMENT

A. Joe Charney and Bob King:

The record establishes that the Local 600 General Council did not have an opportunity to hear or act on our May 6, 2002, election challenge. The Recording Secretary refused to accept our appeal documents and insisted that they be presented to the Election Committee. He also failed to present our appeal along with our exhibits to the General Council. The Election Committee cannot take action on an election challenge. The membership, or in this case the General Council, must consider the matter and vote it up or down.

It is evident from Bryner's report that the IEB had no involvement in the decision on our appeal. Bryner scheduled a hearing, conducted it badly, performed a perfunctory investigation, and then denied the appeal unilaterally. Bryner's assertions in his role as advocate for the Local 600 officers have no evidentiary foundation. For example, the minutes of the Local 600 General Council meeting of August 6, 2001, do not indicate an election of the Election Committee as claimed by the Local officers. They can show no ballots for an election, and no report of the results of the election. It is apparent that Gamble and Murlone, in a very clumsy manner, attempted to fabricate a scenario, long after the fact, that would declare Solomon and Holmes constituted an elected Election Committee. They did not, and the August 6 General Council meeting minutes confirm that fact.

The minutes of the March 4, 2002, General Council meeting clearly demonstrate that the Financial Secretary appointed a three-person Election Committee, in violation of

³⁹ Record, p. 226.

⁴⁰ Record, p. 233

⁴¹ Record, p. 232.

the Constitution. The rules for the election were not drawn up by the Election Committee, nor were they presented to the General Council for approval as mandated by the Local Union Bylaws. The published rules were attributed to the Local President and the Financial Secretary. For all practical purposes, the Local 600 elections were run by the Local officers and their appointed staff.

Gary Bryner violated Article 33 of the Constitution as well as the due process guarantee of the Ethical Practices Code by the manner in which he conducted the hearing on February 5.

B. International Union, UAW:

The record makes clear that the reason there was no election for Election Committee members is simply because there were only five members running for five committee positions. There is nothing to indicate that this practice violated either the UAW Constitution or the Local Union Bylaws.

The Election Committee reviewed and approved the format of the Election Notice in the Local's newspaper with the photographs of the incumbent officers. The record reveals that it has been the custom for over forty years for the current officers' pictures to appear across the top of the front page of the Local Union newspaper. The DOL officer who conducted a pre-election compliance interview at the Local Union had no objection to this format. Moreover the same format was approved by the DOL in 1999.

The problems with the membership lists that King identified were corrected. There is no evidence that any non-dues paying individuals were permitted to vote.

The appellants' complaints about campaigning violations were investigated by the Election Committee. The Committee found no evidence that people were campaigning while on the payroll. In any event, none of the appellants' allegations would provide grounds for overturning an election.

The PRB has long held that elections will be presumed to be valid, absent some compelling evidence to the contrary. Absolutely nothing in the claims and facts brought forward by the appellants, each of whom lost his contest by a substantial margin, was shown to have compromised the integrity of the election process or affected its outcome.

The delay in the resolution of this appeal is unfortunate. It was caused by a change in the personnel of the President's Office as well as the appellants' simultaneous filing of an unsuccessful DOL complaint. It is fortunate in this case, however, that justice delayed did not become justice denied for the simple reason that there are no facts to support a conclusion that the election was anything other than fair and democratic.

C. Response by Joe Charney and Bob King:

The International Union's response to our appeal over President's Gettelfinger's signature was not, in fact, written by the President. A reliable source informs us that it was prepared by Laura J. Campbell, an appointed International Representative, assigned as an Associate General Counsel to the UAW Legal Department. We submit that counselor Campbell did not address a single material argument advanced in our appeal to the PRB. Instead, she repeated the hearsay material produced by Gary Bryner in his report. Therefore, we contend that the Counselor has joined Bryner in his advocacy of the Local Union officers resulting from his conspiratorial and biased conversations at the infamous hearing of February 5, 2004.

The August 6, 2001, Local 600 General Council meeting minutes absolutely establish that there was no democratic election of an Election Committee at said meeting as claimed by the Local Officers. The alleged correction to the minutes bears no date of submission and lacks any credibility. The roster of the General Council committees attached to the August 6 minutes lists Al Holmes and Mattie Solomon as Election Committee members, but the records of the Local Union show that they would not have been eligible for the Election Committee, because they were not, in fact, delegates to the General Council in August 2001.

We stand by our challenge to the 2002 Local Officers' election. The material we have submitted establishes that the membership's right to a fair and free election was denied. In *Rickert v. Local 1695, UAW*, PRB Case No. 1274 (1999), the PRB ordered a new election even though it had not been established that the violations had affected the outcome of the challenged election. The decision states that the credibility of the system demands that when seriously fraudulent practices occur, the election must be rerun.

DISCUSSION

We have denied appellants' request for oral argument on this appeal because the issues presented are simple and the applicable rules are clear. The bulk of the correspondence in the record has to do with procedure. Appellants have written numerous letters to the Local Union, the International Union and the Public Review Board (PRB) complaining that their appeals were not receiving due process. We are satisfied, however, that the appellants were not denied due process in the review of their appeals.

Although appellant Charney did not receive a response from the IEB to his appeal of July 23, 2002, from the determination that his March 9 appeal was untimely, the merits of that appeal, which concerned the legitimacy of the Local 600 Election Committee, were addressed by the IEB when it considered the appellants' appeal from the denial of their May 6, 2002, protest to the general election. Appellants' claim that their May 6 protest was not presented to the Local 600 General Council is simply not true. The May 28, 2002, General Council meeting minutes clearly state that Election

Committee member Al Holmes read all of the appeals. At the conclusion of his report, the Council voted to adopt the report of the Election Committee thereby approving its action on the appeals. Local 600 Recording Secretary Al Murlone confirmed that this is what took place at the May General Council meeting in his letter to appellant King on September 18. Appellants were dissatisfied with the action taken by the General Council on their protest, but they were not denied due process at this level.

There was considerable delay in the processing of appellants' appeal to the IEB, because of the International Union's decision to hold the case pending the outcome of the Department of Labor's investigation into King's complaint about the election, but that obstacle was eventually overcome and the matter was scheduled for a hearing. Appellants objected to the manner in which Presidential Administrative Assistant Gary Bryner conducted the hearing, although they have not explained precisely what he did to offend. Bryner prepared a report for the IEB on behalf of the International President which addressed all of the issues raised by the appellants' protest, so we are satisfied that the appeal received due process at the International level as well, although belatedly.

The record does not support the appellants' claim that the Local 600 Election Committee was not democratically elected or that the members of the Election Committee were ineligible to serve because they were not, in fact, delegates to the Local 600 General Council. Local 600 is an Amalgamated Local Union with a Joint Council established pursuant to Article 35, §2, of the Constitution. In accordance with Article VIII, §1(a), of the Local's Bylaws, the Election Committee required by Article 38, §10(c), of the Constitution is elected by the General Council from among its members at the same time and in the same manner as all of the other General Council Committees. In the case of the Election Committee, five people ran for the five available seats so that the members were considered elected by acclamation. Article 38, §17, of the International Constitution recognizes the validity of elections by acclamation; therefore, such elections are democratic within the meaning of Article 38 §10(c).

In support of their appeal to the PRB, appellants have raised for the first time a claim that the Election Committee members were not, in fact, delegates to the General Council in August 2001, and so were ineligible to serve on any General Council Committees. If this is the case, we question appellants' failure to make the claim earlier in these proceedings. In any event, even if appellants could prove this assertion, it would not provide a basis for overturning the election, since the claim has been untimely asserted and there is no evidence that the Committee failed to perform its responsibilities under the Constitution and the Local Union Bylaws.

Elections are presumed to be valid. In order for one challenging the results of an election to rebut that presumption it must be shown by substantial evidence that some improper practice occurred to such an extent that it could have affected the outcome of the election. *Carter v. Local 7, UAW*, 2 PRB 70 (1974); *Haddad v. Local 157 UAW*, 9 PRB 307 (1997); and *Delling v. Local 659, UAW*, PRB Case No. 1350 (2001). Appellants have not identified any improper action on the part of the Election Committee

members. On the contrary, the record shows that they granted appellants' legitimate requests, and correctly denied those which were inappropriate.

King's own correspondence contradicts his charge that the Local did not provide appellants with an opportunity to view the Local's membership lists. In his letter to Al Holmes and Kenneth Grigsby of April 25, 2002, King describes a "two hour review session" of the membership lists.⁴² Charney was invited to participate in this review, but he chose not to attend. He cannot later complain that he was not given the opportunity to review the membership lists.

There is no other substantial claim raised by appellants in connection with the 2002 elections at Local Union 600. We have already reviewed the campaign materials distributed by or on behalf of the incumbent candidates. In *King v. Local 600, UAW*, PRB Case No. 1445, (2003), we held that the distribution of these materials is protected by the right of free speech guaranteed by the Union's Ethical Practices Codes. We have consistently refused to upset the results of an election over claims that the incumbent candidates enjoyed advantages intrinsic to their offices. *Page v. Local Union 961, 6 PRB 954*, (1991) That precedent applies here as well.

The decision of the International Executive Board is affirmed.

⁴² Record, p. 52.