

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

APPEAL OF:

DONN LEVIN,  
Appellant

-vs-

CASE NO. 1582

LOCAL UNION 2250, UAW  
REGION 5  
(Wentzville, Missouri)  
(THE UNITED AUTOMOBILE, AEROSPACE  
AND AGRICULTURAL IMPLEMENT  
WORKERS OF AMERICA),  
Appellee.

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**DECISION**

(Issued January 28, 2008)

PANEL SITTING: Prof. Theodore J. St. Antoine, Chairperson,  
Prof. Janice R. Bellace, Prof. James J.  
Brudney, Prof. James E. Jones, Jr.,  
Dean Harry C. Katz, and Prof. Maria L.  
Ontiveros.

Donn Levin argues that all members in the districts affected by a redistricting agreement should have been considered nominated for Committeeperson and Alternate Committeeperson in the election of representatives for the new districts.

**FACTS**

Donn Levin works at General Motors' Wentzville Assembly Center in a bargaining unit represented by UAW Local Union 2250. In 1996, the Assembly Center had twelve districts based on a plant population of 2,511 employees.<sup>1</sup> On February 19, 2007, the number of districts was reduced to eight based on a plant population of 2,026 employees.<sup>2</sup> According to Local 2250 President Gary Style, the reduction of districts was accomplished by combining some of the existing districts.<sup>3</sup> In support of his appeal,

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<sup>1</sup> Record, p. 13.

<sup>2</sup> Record, p. 19.

<sup>3</sup> Record, p. 15.

appellant Donn Levin submitted a description of how the entire plant was affected by the redistricting.<sup>4</sup>

At a meeting on February 19, the Local 2250 Executive Board adopted a motion to hold a new election for the Committeepersons and Alternate Committeepersons affected by the redistricting.<sup>5</sup> The intent of this motion was to limit eligibility to run for Committeeperson or Alternate in the new districts to people who had previously been elected. A notice of the Committeeperson election addressed to UAW Local 2250 members in the new Districts 1, 2, 5, 6, 7, and 8 states as follows:

“Only Elected Committeepersons and Alternate Committeepersons affected by the new Re-Districting Agreement are automatically nominated for the positions listed below.”<sup>6</sup>

When the Local Executive Board’s motion was presented to the membership at a meeting on February 21, 2007, a motion was introduced to open nominations for Committeeperson and Alternate Committeeperson to any person in a new district created by the Local Districting Agreement dated February 19, 2007. The minutes of the membership meeting report the following action with respect to the motion:

“Moved and supported to amend motion to open nominations to any person in district as stands by re-districting agreement. President Style ruled the motion improper. The Chair was challenged. Vice President Dan Howell ruled motion as improper. Call for the original motion to hold elections for Committeeperson and Alternates affected by the re-districting. Motion carried. For 177, Opposed 52.”<sup>7</sup>

On March 5, 2007, Donn Levin submitted an acceptance of nomination to the position of District 8 Committeeperson to UAW Local 2250.<sup>8</sup> On March 9, Election Committee Chairperson Wanda Richard advised Levin that he could not accept nomination to the position of District 8 Committeeperson because only elected Committeepersons were nominated. Richard informed Levin that his name would not appear on the ballot.<sup>9</sup> Former District 12 Committeeperson Donald J. Kowalske, Jr. and

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<sup>4</sup> Record, p. 85.

<sup>5</sup> Record, p. 18.

<sup>6</sup> Record, p. 20.

<sup>7</sup> Record, p. 22.

<sup>8</sup> Record, p. 23.

<sup>9</sup> Record, p. 24.

Former District 6 Committeeperson James Cunningham ran for the position of District 8 Committeeperson.<sup>10</sup> The election on March 22, 2007, produced the following results:

“Donald J. Kowalski, Jr. James Cunningham	93 (elected) 60” <sup>11</sup>
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On March 27, 2007, Donn Levin protested the results of the District Committeeperson election because his acceptance of nomination was denied.<sup>12</sup> In addition, Levin appealed the ruling of the Chair at the membership meeting on February 21 that the motion to open nominations to all members of the District was out of order. His appeal states:

“I appeal the decision of the Chair at the 2-21-07 union meeting when a motion to hold elections for only committeepersons and alternates affected by the redistricting was to be voted on. An amendment was made to open nominations to all persons in the districts affected by the redistricting agreement. The President ruled this amendment out of order. The Chair was challenged. Vice President Howell also ruled the amendment out of order. There was no valid reason to rule this amendment out of order. Therefore a new open election should be scheduled.”<sup>13</sup>

Levin’s appeals were read to the Local 2250 Executive Board at a meeting on April 16, 2007. The Executive Board voted to deny both appeals.<sup>14</sup> The results of the redistricting elections were reported to the membership at a meeting on April 18, 2007. The membership voted to accept the results.<sup>15</sup> Levin’s appeal was also read to the membership under New Business. The minutes report the following action on Levin’s appeal:

“Recording Secretary Jacquie Stanton read the appeal by Donn Levin regarding the recent re-districting elections. The appeal was denied. For 1, Against 119.”<sup>16</sup>

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<sup>10</sup> Record, p. 30.

<sup>11</sup> Record, p. 38.

<sup>12</sup> Record, p. 40.

<sup>13</sup> Record, p. 41.

<sup>14</sup> Record, p. 43.

<sup>15</sup> Record, p. 44.

<sup>16</sup> Record, p. 45.

Levin appealed the membership's decision to deny his appeal to the International Executive Board (IEB) on May 10, 2007. In support of his appeal, Levin argued that the motion to open nominations to all members of the new districts was proper and should not have been ruled out of order by President Styles. He wrote:

*"Robert's Rules govern Union meetings at Local 2250. Robert's Rules state motions are out of order if the motion conflicts with the law or with the bylaws. Article 45 of the Constitution says nothing about redistricting elections. Local 2250 Bylaws do not cover redistricting elections. Robert's Rules state that an appeal of the Chair's decision (or a challenge) requires the Chair to submit the decision to the vote of the membership. This did not happen."*<sup>17</sup>

Levin reported that when his appeal was presented to the membership at the April meeting, the Local Recording Secretary explained that the ruling of the Chair on the motion to open the redistricting election to all members was based on Article 45 of the International Constitution and a ruling of the Public Review Board (PRB). According to Levin, Recording Secretary Stanton read the following summary of the PRB's decision in *Vicola, et al. v. IEB and Patrick v. Local Union 653, UAW*, 4 PRB 108, Case Nos. 631 and 635 (1984):

*"The requirement of Article 45 of the Constitution that shop stewards be democratically elected was not violated in redistricting situations arising out of a reduction in force for the membership in one instance to decide that the president should appoint the committeeperson of the surviving district after consultation with the shop committee or, in the other instance, that the district committeeperson in the surviving district could not be bumped by the zone committeeperson. There is nothing inherently undemocratic in allowing the membership of a local union to determine from among several fair and objective alternatives (new elections, seniority, tenure or experience in the position, and the proportion of the new constituency previously represented) so long as the selection is made from among persons previously democratically elected."*<sup>18</sup>

Levin stated that Recording Secretary Stanton recommended that his appeal should be denied so that the issue could be addressed by the IEB.<sup>19</sup> In response to Levin's appeal to the IEB, Recording Secretary Stanton explained that President Style concluded

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<sup>17</sup> Record, p. 47.

<sup>18</sup> Record, p. 12.

<sup>19</sup> Record, p. 47.

based on consultations with the International President's staff that the redistricting election should be conducted among those people who had already been elected to complete a three year term.<sup>20</sup>

President Gettelfinger's staff determined that a hearing was unnecessary on Levin's appeal. They prepared a report to the IEB on the President's behalf based on information provided by Levin and Local Union 2250. Staff reported that representatives of Local 2250 explained that the Local Union's Committeepersons and Alternates had been elected for a three year term in accordance with Article 45, §2, of the International Constitution as well as the Local Union Bylaws. The Local argued that it made Constitutional sense to conduct the elections in the new districts among the representatives who had already been elected so that as many as possible could complete their three year terms.<sup>21</sup>

Staff concluded that when redistricting reduces the number of Committeepersons and Alternates, the question raised is whether the procedure for determining who will hold the remaining positions is consistent with standards of fair play and democracy.<sup>22</sup> Staff found that the procedure adopted by Local Union 2250 was fair and democratic. Furthermore, staff observed that the membership supported the procedure.<sup>23</sup> Staff held that it was not necessary to address the question whether the challenge to the Chair was handled properly because the membership's vote clearly expressed what it wanted to do. Staff stated:

“...As reflected by their overwhelming vote in favor of having an election amongst those previously elected, it is obvious to us their vote strongly indicates if there was a vote on the challenge, it would not have been in favor of the appellant.”<sup>24</sup>

Staff found no basis for disturbing the membership's decision and it denied Levin's appeal. The IEB adopted staff's report on September 4, 2007. Levin has now appealed the IEB's decision to the PRB.

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<sup>20</sup> Record, p. 48.

<sup>21</sup> Record, p. 58.

<sup>22</sup> Record, p. 61.

<sup>23</sup> Record, p. 63.

<sup>24</sup> Record, p. 64.

## ARGUMENT

### **A. Donn Levin:**

An election was needed after the redistricting agreement on February 19, 2007, because all of the districts and zones were changed. As a result of the changes, members of the districts were no longer represented by people they had elected.

Member Don Starky made a motion to amend the motion recommended by the Executive Board to limit the election to incumbent Committeepersons and Alternates. Starky moved to have an election that was open to all members affected by the redistricting. Starky's motion was seconded. There was nothing out of order about the motion. President Style claimed the motion was contrary to Article 45 of the Constitution, but nothing in Article 45 requires the procedure recommended by the Local 2250 Executive Board. Nevertheless, President Style informed the membership that if anyone appealed his ruling, he would guarantee that the International Union would also rule that the motion was out of order.

I disagree with the way President Style handled the motion to amend. *Robert's Rules of Order* define the following as motions that the Chair should rule out of order:

“Motions that conflict with the law or with the bylaws, Motions that repeat the same question on the same day,

Motions that conflict with an already adopted motion,

Motions that operate outside the scope or object of the organization,

Motions that conflict with or repeat motions held in committee,

Motions that appear dilatory, incorrect, or rude.”

Starky's motion does not fit into any of these categories. *Robert Rules of Order* allows the group to change a proposed motion to represent more clearly the will of the group. This process is described as “perfecting the motion.” Starky's motion falls into this category.

Starky's motion did not conflict with the Local Union Bylaws or the statement in Article 45, §2, that Committeepersons shall be elected for a three year term. In the general election of 2005, the Bargaining Committee was elected for a three year term, but two years into their term management requested a redistricting of the plant. All zones, shop districts and districts were changed in that redistricting. Now all those who were elected to the three year terms no longer have the areas they were elected to represent. Therefore, the term defined in Article 45 does not apply to the 2005 election

of Committeeperson. As further support for this position, the Committeepersons elected in 2007 were not elected for a three year term, but only to complete the term beginning in 2005.

The summary of the PRB's decision in *Vicola* that was read to the membership was misleading without being put in the context of the entire case. The bylaws in that case stated that the President should appoint the Committeeperson of the surviving districts. The Local 2250 bylaws, on the other hand, state that all elections at Local 2250 should be conducted democratically. The language in the decision about allowing the membership to choose from among fair and objective alternatives simply raises the question once again about the propriety of Starky's motion. Starky's motion should have been presented to the membership as one possible fair and objective alternative.

#### **B. International Union, UAW:**

In 2007, a reduction in the workforce at General Motors' facility in Wentzville, Missouri required the Local to reduce the number of districts in the plant. This was accomplished by merging several districts and renumbering the remainder. At this time, the Committeepersons and Alternates representing the districts were in the middle of a three year term. The Local Executive Board recommended, therefore, that eligibility to run for Committeeperson and Alternate for the new districts should be limited to those who had already been elected to these positions. The membership voted to approve the motion to limit eligibility to the incumbent Committeepersons and their Alternates by a vote of 177 to 52.

The procedure adopted by Local 2250 did not violate the requirement of Article 45, §2, that Stewards and Committeepersons be democratically elected. The principle established by the PRB in the *Vicola* appeal when circumstances require a reduction in the number of representatives is that the method used must be fair and that the selection must be from among persons previously democratically elected. The procedure used by Local 2250 meets this standard. Furthermore, the procedure advocated by appellant would have undercut the Constitutional requirement that Committeepersons serve for three years. The membership approved the motion to limit eligibility by a large margin. It also voted to deny Levin's appeal. The democratic action of the Local Union should not be overturned unless that action is plainly inconsistent with the Constitution.

Levin's only argument in support of his appeal is that the membership erred when it ruled Starky's proposed amendment out of order. The Chair was justified in ruling the amendment out of order. Starky did not seek to amend the Local Executive Board's motion, but to reverse it. The proper parliamentary procedure would have been to defeat the motion and then to propose an alternative one. In any event, even if the ruling was erroneous, it is clear that the outcome would have been the same. The membership endorsed the original election proposal overwhelmingly. It later rejected

Levin's appeal. Thus, it is virtually certain that Starky's proposed amendment would have been defeated if a vote had taken place.

**C. Rebuttal by Donn Levin:**

The International Union stated that the redistricting in 2007 merged several districts and renumbered the remaining districts. That is not accurate. The whole plant was affected by the redistricting, not just several districts. This is not clear from the redistricting agreements that were submitted by the Local Union. I am submitting a clearer presentation of the districts before and after the redistricting, which shows how the entire plant was affected.

Paragraph (10) of the UAW/GM National Agreement states that the members of each district shall select a Committeeperson who is working in the district to represent employees in the district. Once the districts were completely altered, the employees in each of the new districts should have been given the opportunity to elect their Committeeperson from among the people working in the district. The PRB's ruling in the *Vicola* case is not inconsistent with my position. Article 45 of the Constitution leaves the manner of conducting redistricting elections up to the membership.

The International Union argues that the membership of Local 1250 voted overwhelmingly for the original motion and that Starky's intent was to reverse the original motion. The International Union is assuming that the whole membership was aware of Starky's motion. That is not so. Starky and I are both on the second shift. That is the first meeting conducted during the day, followed by the third shift, and then the first. When President Style and Vice President Howell ruled the motion out of order at the second shift meeting, it was not brought up again. There is no way to determine now how the membership would have voted on the amendment because they were denied the opportunity to do so. The fact that they approved the original motion is irrelevant.

My appeal has always been about the Chair refusing to allow the motion to amend. President Style stated that if anyone appealed his ruling, he would guarantee that the International Union would also rule the motion out of order. I appealed this to the Local. I appealed this to the IEB. Now I am appealing this to the PRB. The Constitution states that this is the proper order of appeals. I believe that the International Union has been assuming that this appeal is about my rights alone. This appeal is about the membership's right to run the Local Union. The Local bylaws state that the membership is the highest authority of the Local. Let the membership decide the status of Don Starky's motion to amend.

**DISCUSSION**

The PRB has no jurisdiction to grant the relief sought by appellant. It is clear from this record that appellant seeks to overturn a ruling of the Chair on the propriety of a motion introduced at a membership meeting. In accordance with Article 33, §2(b), of

the International Constitution, rulings of the Chair on procedural questions arising during Local Union membership meetings may not be appealed beyond the membership.<sup>25</sup>

Levin maintains that Style's ruling was inconsistent with *Robert's Rules of Order* in that Starky's motion does not fit into any of the categories defined as motions that the Chair should rule out of order. The framers of the UAW Constitution have determined, however, that the efficient conduct of the Local Union's business is more important than the possibility that the Chairperson of a meeting might occasionally err on a procedural question. If every procedural ruling had to be tested by the entire appellate process described in Article 33 of the Constitution, it would be difficult for a Local Union to conduct any business. The membership's decisions on day-to-day issues could be held open while rulings of the Chair were challenged through a process which often takes up to a year to complete.

The membership's right to overrule the Chair provides sufficient protection of its right to run the Local. In this case, it is clear that there was little enthusiasm for Starky's motion, so the membership merely accepted the Chairperson's ruling with respect to the impropriety of the motion. Had there been substantial support for Starky's position, there would probably have been more opposition to the ruling of the Chairperson. Similarly, members from other shifts could have raised the issue at subsequent meetings and voted on whether the motion should be considered. The record before us supports a conclusion that the decision to limit eligibility in the redistricting election to incumbent Committeepersons and their Alternates reflected the will of the membership of Local Union 2250.

The appeal is dismissed.

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<sup>25</sup> Article 33, §2(b), of the International Constitution states, in pertinent part, as follows:

"In the types of cases listed below, the appeal shall be limited as specified:  
...For any action or decision pertaining to the following matters:...rulings of the Chair on procedural questions arising during Local Union membership and other meetings;...the appeal shall be to the membership of the Local Union, or in the case of an Amalgamated Local Union, first to the membership of appellant's unit, if necessary, and then to the delegate body or general membership of the Amalgamated Local Union. There shall be no further appeal from the decision of the membership of the Local Union or Amalgamated Local Union."