

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

APPEAL OF:

ERICKA JONES AND RANDALL D. PEARSON,
Appellants

-vs-

CASE NO. 1620

LOCAL UNION 140, UAW
(Warren, Michigan)
REGION 1
(THE UNITED AUTOMOBILE, AEROSPACE
AND AGRICULTURAL IMPLEMENT
WORKERS OF AMERICA),
Appellee.

DECISION

(Issued June 24, 2009)

PANEL SITTING: Prof. Janice R. Bellace, Chairperson,
Prof. James J. Brudney, Prof. Fred
Feinstein, Dean Harry C. Katz,
Prof. Maria L. Ontiveros, and
Prof. Calvin William Sharpe.

Ericka Jones and Randall Pearson argue that improprieties affected the outcome of the Presidential and Recording Secretary contests in general elections conducted by UAW Local Union 140 on May 13, 2008.

FACTS

Randall D. Pearson was a candidate for President and Ericka Jones was a candidate for Recording Secretary in general elections conducted by UAW Local Union 140 on May 13, 2008.¹ The elections for these two positions produced the following results:

¹ Record, p. 12.

PRESIDENT

Bernice Johnson	35	
Randall D. Pearson	697	
MarkTaylor	1203	(Elected)
Melvin Thompson	459	

RECORDING SECRETARY

Phillis Hoskin	288	
Ericka Jones	837	
Tiffany Rice	1203	(Elected) ²

At a membership meeting on May 18, 2008, member Stacy Crawford reported that she was told that votes cast by employees in the janitorial department did not count in the election and she wanted to know if that was true. The minutes of the meeting report that President Melvin Thompson responded as follows:

“President Thompson stated that the janitorial department votes did count. Stating that at the time you were in the janitorial department and your votes went towards the janitorial department.”³

Crawford is reported to have replied as follows:

“Sister Crawford stated that none of janitorial votes were challenged. That’s pretty much what you are saying. We were told that our votes were challenged in the janitorial department.”⁴

Election Committee Chairperson Matthew Harper, Sr., stated that all ballots were counted.

Ericka Jones filed an appeal with the Election Committee and the Recording Secretary of Local 140 following the May 18 membership meeting. In her appeal, Jones stated that during that meeting, Chairperson Harper indicated that challenged ballots were included in the vote count. She stated that she understood that there were 67 challenged ballots. Her appeal states:

“...During our recent general membership meeting which was held on Sunday, May 18, 2008, Committee Chairperson Matthew Harper, Sr. indicated that there were challenged ballots included in the count. It is my understanding 67 to be exact; however, according to the guidelines for Local Union Election Committees, at the start of the tally of ballots, decisions about the counting of each challenged ballot should be

² Record, p. 13.

³ Record, p. 24.

⁴ Record, p. 25.

announced to those in attendance, and the reason for each decision should be explained to challengers. The Election Committee failed to follow the guidelines as to inform each challenger of their right to review the eligibility of each challenged ballot, which did affect the outcome of the entire race. For this reason, I am requesting that the election be overturned and rerun.”⁵

A runoff election was conducted on May 21, 2008. Ericka Jones was not a candidate in that election, but she did act as a challenger for Torrey Green, a candidate for Local Executive Board member. On May 27, 2008, Jones added an item to her appeal concerning the counting of the ballots in the runoff election. Her letter states:

“I would like to amend my appeal to include what I observed on Election Day, May 21, 2008. I, Ericka Jones, was a challenger, and at the end of the tally of ballots, a CPA indicated that there were 2038 ballots cast so far. Myself and another challenger disagreed and stated what we counted, which was 1990 ballots, a difference of 58 ballots. At this time, everyone began to get upset and challenge the difference. Later, the CPA admitted that she had run 58 tests on the day before and forgot to erase her computer or memory card. If I and the other challenger had not recorded the total ballots, I can only imagine what might have happened.”⁶

One of the other challengers, Denise Caldwell, submitted a statement to the Local Union Recording Secretary and the Election Committee Chairperson regarding the issues raised by Jones’ appeal. Caldwell’s letter states:

“The Election Committee handled both elections with the proper announcements and procedures. In the general election, there was some concern due to the conversation of some challengers who did not hear a very important announcement concerning the challenged votes and that was immediately taken care of. In the runoff election, there was a concern due to differences in the number of votes. Ms. Willa Jean, City of Detroit, recognized that she had previously tested her computer program and failed to delete it. Ms. Willa Jean proceeded to delete the entire election and test from her computer, reloaded her computer with the test being deleted, and the numbers were now in line with all challengers. The final report was given and all challengers proceeded to inform their person with the election results. If there was a problem, it should have been addressed and discussed immediately after the report was given. ...”⁷

⁵ Record, p. 23.

⁶ Record, p. 30.

⁷ Record, pp. 31-32.

The minutes of a membership meeting on June 8, 2008, report that Randall Pearson and five other members filed election protests based on the complaint that the challengers were not informed about the number of challenged ballots and how they would be processed.⁸ The minutes indicate that the Election Committee responded that the challenged ballots were processed in the following manner:

“...All challengers were informed about the challenged ballots before they were even brought out of the ballot box. Once they were given to the office staff for verification, the election committee asked if there were any challengers who wanted to go up to the front office to verify the challenges and only one challenger went to the front office along with the office staff and two members of the Election Committee.”⁹

With respect to the comments made at the May 18 membership meeting regarding challenged ballots, the Election Committee Chairperson made the following response:

“At the General Membership Meeting held on Sunday, May 18th, Sister Stacy Crawford did not state that she voted a challenged ballot, her question was whether or not the rumor she had heard was true that all janitors’ votes were not counted. Election Committee Chairperson Matthew Harper Sr. told her that was not true. All votes were counted from janitorial and all challenged ballots that were verified were also counted.”¹⁰

The minutes of the June 8 membership meeting also indicate that Ericka Jones’ appeals were read. In response to her appeals, Chairperson Harper is reported to have commented as follows:

“Brother Harper, Sr. read the amended appeals of Sister Jones and Sister Green. Brother Harper stated that you were speaking hypothetically, and as a challenger you did a swell job. You made the necessary correction and as challenger, this is your responsibility and based on that your appeal for another election is denied.”¹¹

The membership adopted a motion to accept the recommendation of the Election Committee to deny all of the protests.¹²

⁸ Record, p. 35.

⁹ Record, p. 35.

¹⁰ Record, p. 35.

¹¹ Record, pp. 35-36.

¹² Record, pp. 35-36.

Erica Jones and Randall Pearson appealed the membership's denial of their protests to the International Executive Board (IEB). In her appeal dated June 22, 2008, Jones reported that Stacy Crawford was required to cast a challenged ballot and that Crawford was told that janitors' votes were not counted. According to Jones' appeal, the Election Committee Chairperson acknowledged that there were 72 challenged ballots, and he stated that some of these were included in the final vote tally. Jones argued that this was improper. She referred to the *UAW Guide to Local Election Committees* and stated that the procedure for handling challenged ballots should be explained to the challengers before the ballots are tallied. She asserted that no announcement regarding the handling of challenged ballots was ever made to the challengers. Jones wrote:

"...This announcement was never made, and the Election Committee failed to follow the guidelines as to inform each challenger of their rights to review the eligibility of each challenged ballot. Bill Lovell who was a challenger for one of the candidates testified that he saw Brother George Jankobick, who had been fired two weeks before, come in and vote a challenged ballot because his name was not on the list. Bill Lovell said when he questioned George Jankobick, he stated he was only suspended but really he had been terminated. The improprieties may have affected the outcome of the election."¹³

Jones stated that she found it hard to believe that only one challenger volunteered to come to the front office to witness the validation of the challenged ballots in the general election. She stated that she had spoken with over a dozen other challengers who did not hear the Election Committee Chairperson ask if any challengers wanted to view the validation of the challenged ballots. She listed the names of twelve challengers who were willing to testify that they never heard any such offer being made. Jones commented:

"...I am concerned about the 72 challenged ballots not knowing when and where they were counted, at the beginning, middle, or the end, and [were] these people eligible to vote? Erica Jones missed a runoff by 38 votes, and Randall D. Pearson by five votes. For this reason, I am requesting that the election be overturned and a rerun or manual tally of all the votes including the challenged ballots, making sure they were eligible voters."¹⁴

Jones also complained about the CPA's mistake in the runoff election. She stated that the CPA's excuse that she forgot to clear her computer's memory was unacceptable coming from a CPA.¹⁵ On July 1, 2008, Randall Pearson also filed an appeal to the IEB

¹³ Record, pp. 40-41.

¹⁴ Record, p. 41

¹⁵ Record, p. 42.

based on the claim that the Election Committee failed to inform the challengers about the 72 challenged ballots.¹⁶

The Local 140 Election Committee prepared a statement in response to Ericka Jones' appeal. Chairperson Harper explained that there were between 60 and 70 challengers present during the tabulation of the ballots. He stated that he asked everyone to be quiet and pay attention, but few people were paying attention and there was a lot of disruptive talking going on. He continued:

"...I asked if any challengers would like to go to the front office with a representative from the Election Committee and the office staff to verify the challenged ballots, and only one challenger responded. I asked twice and no one else went. I have signed statements from some [of] the challengers present that they did hear the announcement about the challenged ballots. ..."¹⁷

Jessica Bryant, Charlie Wilson, Lawrence Taylor, and Herman Ector submitted statements attesting to the fact that that they heard Harper ask if any challengers wanted to go to the front office with the Election Committee and that only one challenger accepted the offer.¹⁸ Ken Karns signed a statement that he heard the announcement and that he was the only challenger to accept the offer.¹⁹ Chairperson Harper reported that once the challenged ballots were validated, they were returned to the ballot box and counted. Harper denied that the CPA firm hired by the Local to conduct the tabulation of the ballots made the error described by Jones. He explained:

"Sister Jones states that the CPA made an error in announcing the vote total count for the runoff election for which she was a challenger. The CPA was not making the announcement; it was a worker for the City of Detroit's department of elections, Willa Jean. Willa Jean is a programmer and she created a program on her laptop computer that would tabulate the vote totals much faster. During the course of the day she did test[s] on her laptop, not on the voting machines. At the end of the day, she forgot to delete her test numbers, so when it was time to do the vote tabulation, she made an error. She corrected the error and explained what happened to the challengers before the vote tabulation even took place."²⁰

International President Ron Gettelfinger's Administrative Assistant Eunice Stokes-Wilson initiated an investigation into Jones' and Pearson's protests on

¹⁶ Record, p. 43.

¹⁷ Record, p. 45.

¹⁸ Record, pp. 48, 49, 50, and 51.

¹⁹ Record, p. 47

²⁰ Record, pp. 45-46.

August 22, 2008. When her investigation was complete, Stokes-Wilson prepared a report to the IEB setting forth her findings and conclusions. In that report, Stokes-Wilson explained that after reviewing the appeals and listening to the testimony of witnesses, she concluded that the primary issue raised by Jones and Pearson was their claim that challengers were not given the opportunity to observe the validation of challenged ballots.²¹ Stokes-Wilson reported that there was an unusually high number of challenged ballots because of recent changes to the representational districts. In addition, the parties had agreed to the elimination of the janitor classification during recent negotiations, so there was confusion about which district would represent the janitors.²² There were also numerous blank ballots because the Local had to have sixteen different ballots printed for the various representational districts in the Local Union.²³

Stokes-Wilson observed that there was no dispute that at the conclusion of the polling there was a lot of talking and it was difficult to hear. At this time, approximately 70 challengers were gathered at the hall. Some people heard the offer to allow the challengers to view the validation of the challenged ballots and some people did not. Stokes-Wilson pointed out that the question raised by Jones and Pearson, namely, whether the challenged ballots were properly validated, could be resolved by examining the ballots. She therefore adjourned the hearing on August 22. On August 26 Stokes Wilson met with the parties at the Local Union hall to examine the challenged ballots.²⁴

Stokes-Wilson reported to the IEB that the Local Union's election materials had been disturbed and were not in order when she arrived at the Local Union on August 26. Because of this situation, Stokes-Wilson agreed to recount all of the ballots cast for the position of President and Recording Secretary. When the ballots were recounted, however, the total number of ballots counted did not equal the number of ballots reported by the Election Committee in the original election. Stokes-Wilson described these events in her report to the IEB as follows:

“On August 26, 2008, the hearing reconvened at the Local Union 140 Hall to examine the challenged ballots. The election materials were in a locked room in the Local Union Hall in several different containers and sealed envelopes. There was no order to the manner in which the data was stored. We learned that the envelopes with the names of the members voting by challenged ballot have been destroyed. However, the Election Committee had maintained a list of those voting a challenged ballot. We found no evidence that members voted improperly. Jones claims there were problems with the count for the runoff election, and requested a manual recount of the general election. Jones also stated

²¹ Record, p. 66.

²² Record, p. 56.

²³ Record, p. 71.

²⁴ Record, p. 69.

that she worked for the City of Detroit Election Department and implied the possibility of machine malfunction. Thereafter, we agreed to a manual count for the positions of President and Recording Secretary. At that time we learned that all the ballots were not accounted for. The Chairperson of the Election Committee called the official from the City of Detroit to determine whether he had any election records. The answer was affirmative. We adjourned the counting until we received information from the official."²⁵

It eventually turned out, however, that the City of Detroit only had some blank ballots. The recount commenced once again, but the number of ballots counted was still not consistent with the official election results. Eventually, additional ballots were found and the results of the recount confirmed the official results with one minor discrepancy. Stokes-Wilson's report states:

"Upon reconvening, we learned that he had blank ballots from the runoff election only. The Election Committee, with challengers present went back into the room and emptied all its contents. Additional election materials were found accounting for all the ballots. The manual recount continued and yielded basically the same result. [Footnote omitted]"²⁶

In the conclusion of her report to the IEB, Stokes-Wilson commented that the manner in which the Election Committee stored the election material left a lot to be desired, but she found no evidence that any member of the Election Committee acted improperly. Stokes-Wilson stated that she was convinced based on her investigation that no one voted who was ineligible to vote.²⁷ Stokes-Wilson denied the appeal of Ericka Jones and Randall Pearson. The IEB adopted her report as its decision on December 2, 2008. Ericka Jones appealed the IEB's decision to the Public Review Board (PRB) on January 1, 2009, and Randall Pearson appealed to the PRB on January 9.

On February 16, 2009, Randall Pearson submitted statements from two members of the Election Committee to the PRB and asked us to consider them. Pearson explained that these members were not part of the investigation conducted by Stokes-Wilson on behalf of President Gettelfinger. They came forward when they learned the investigation had revealed that missing ballots were discovered in a ballot container at the Local Union Hall. Claude R. Smith stated:

"...I am a member of the Election Committee of Local 140 UAW and was involved in the preparation and conducting of the election. I had no involvement in these hearings and only heard about the results from other

²⁵ Record, pp. 69-70.

²⁶ Record, p. 70.

²⁷ Record, pp. 70-71.

members. I was told there were missing ballots during the recount for the office of President and Recording Secretary of the Local Union. I was also told that these missing ballots were found in an empty ballot can at the Local Hall. Election computer machines were used for the May 13 election and all ballot cans were checked and put out of the way in the storage room of the Union Hall. After the closing of the polls for the election, all used ballots were put in an envelope, sealed and placed in a big box, which Election Committee members signed off on and placed in storage. I feel that the Election Committee did the job they were elected to do and resent the fact that we were negligent in any way.”²⁸

Election Committee member Todd Taylor gave the following statement:

“...Based on the information I was told (missing ballots being found in an empty ballot can) when the polls closed, the used ballots were sealed in an envelope and placed in a big cardboard box and signed off on by members of the Election Committee. In preparing for this election, all ballot containers at the Local Union were checked to see that they were empty and stacked in the storage room of the Hall, because they would not be used in the election. This was done because we were only using computerized voting machines for this election. Elections are very important to me, and as a member of the Election Committee, we performed our duties as set forth in the Guidelines for conducting UAW elections.”²⁹

ARGUMENT

A. Ericka Jones:

In response to my appeal, Administrative Assistant Eunice Stokes-Wilson scheduled a hearing at the Local Union hall to count the challenged ballots and check the eligibility of each person who voted. When we met at the hall, Stokes-Wilson instructed Election Committee Chairperson Matthew Harper to go into the locked room where the election materials were stored and retrieve the challenged ballots. Harper stated that he did not have a key to the room and would have to obtain one from the Financial Secretary-Treasurer. This was the room that was used by the Election Committee to safeguard the election materials and the Election Committee had no key to the room while others did. The materials were not being secured by the Election Committee as required.

When Chairperson Harper opened the door to the room, he discovered that the box with the challenged ballots was half opened on one end and ballots were hanging

²⁸ Record, p. 92.

²⁹ Record, p. 93.

out. Harper immediately yelled, "I did not do this; it was already opened." Only 67 of the 72 challenged ballots could be identified because the envelopes in which the ballots had been placed were not in the box. Election Co-Chairperson Sam Jones reported that other members had thrown the envelopes away.

When Stokes-Wilson counted the ballots cast at the Local Union hall where the retirees vote, she counted a total of 455 ballots. Yet, there were only 324 registration cards. A voter is required to fill out a registration card in order to obtain a ballot. When they counted the votes cast by retirees for Tiffany Rice in the Recording Secretary race, the total came to 374. This number is impossible, because only 337 retirees voted on May 13, 2008. When I asked how there could be 374 votes for Rice when there were only 324 registration cards, Stokes-Wilson stated that we could not go by the registration cards because they were all mixed together with cards from the runoff election. This is not true because the cards are dated.

When Stokes-Wilson counted the votes cast in the trailers by active members, she discovered that there were 328 fewer ballots than the official election results reported on May 13, 2008. Financial Secretary Bob Moriarity asked Stokes-Wilson how many ballots were missing for each candidate in the Recording Secretary race. She reported that 30 were missing for Phyllis Hoskins, 120 for Ericka Jones, and 163 for Tiffany Rice. Stokes-Wilson asked the Election Committee to call the City of Detroit to see if they had any ballots. A secretary for the City reported that they did have something in a box, but the box was sealed so they could not identify what was in it. Stokes-Wilson instructed the Election Committee to go pick up the box and leave it sealed.

When we reconvened on September 3, 2008, the box from the City of Detroit was on a table at the hall already opened. This was disturbing because Stokes-Wilson had instructed the Election Committee to leave the box sealed. This box contained blank ballots, so Stokes-Wilson suggested that we should search the room where the election materials had been stored. Randall Pearson objected to this because the room had already been thoroughly searched. Election Co-Chairperson Jones responded that they had not checked the ballot cans in the back of the room. Challenger Bill Lovell responded that he had looked in the cans last week. Furthermore, Lovell pointed out that all the other ballots were sealed in boxes, so why would there be ballots in a can? Nevertheless, Stokes-Wilson insisted that the room should be searched. After pulling everything out of the room in the back of the closet, they found an envelope dated May 13, 2008, with one unidentifiable signature on it in one of the ballot cans. This envelope was opened and it contained the exact number of missing ballots.

The envelope that was discovered on September 3, 2008, contained ballots and stubs neatly stacked together. The other election materials were all stuffed into envelopes so that the stubs and ballots had to be separated in order to count them. Furthermore the envelopes in the ballot boxes used by the Election Committee were not dated and were signed by two or more identifiable Election Committee members. I asked election worker Claude Smith how they handled the envelopes on the night of

May 13, 2008. He stated that they did not put any dates on the envelopes because each envelope was going to be sealed in one of the large boxes. The envelope discovered on September 3, 2008, was neatly organized and dated, unlike all of the other election materials.

The UAW Constitution promises fairness. I do not believe the election conducted by Local 140 was fair. Because there were so many irregularities in the vote count, I did not have a fair chance.

B. Randall D. Pearson:

On August 26, 2008, a manual recount of the ballots for the offices of President and Recording Secretary was conducted by Administrative Assistant Eunice Stokes-Wilson. It was determined that over 300 ballots were missing. At this point, a Local Union secretary informed Stokes-Wilson that the election workers for the City of Detroit who assisted Local 140 in conducting its general elections had a box which belonged to the Local. On September 3, 2008, Stokes-Wilson informed us that the box which the City of Detroit election worker had contained blank ballots. She then instructed the Election Committee members to pull everything out of the storage room where the election materials had been kept. Between August 26 and September 3, 2008, the missing ballots were found in a ballot box in the storage room, even though that room had already been searched.

The results of this election were surely affected by the appearance of the missing ballots six days after the storage room had been searched. Also, it was improper for an election worker to be in possession of a ballot box with blank ballots following the election. There was no announcement to the challengers on the number of challenged ballots cast during the May 13, 2008 election. There should have been an announcement made by the Election Committee to all challengers and an agreement made on how challenges would be resolved.

For these reasons, the election of officers conducted by Local 140 on May 13, 2008, should be overturned and the election should be rerun for all eligible candidates.

C. International Union, UAW:

It is well established that all Local Union elections are presumed valid. To rebut that presumption, there must be clear and convincing evidence that some improper practice occurred to such a degree as to affect the outcome of the election. *Trick v. Local Union 212*, 6 PRB 103, 105 (1990); and *Alejandro v. Local Union 2244*, PRB Case No. 1553 (2007), at 13. The appellants in this case have failed to meet that burden.

Witnesses gave conflicting testimony regarding the process for validating the challenged ballots. It is clear that the Election Committee's offer to the challengers to witness this procedure was not heard by all of the challengers. Nevertheless, even

assuming that the Election Committee did not adequately communicate with the challengers, there has been no showing that this lapse was anything other than a simple human error. The IEB's independent verification of the challenged ballots demonstrated that they were properly counted. This Board has previously held that simple human mistakes, as opposed to misconduct, will not serve as a basis for setting aside an election unless it is demonstrated that the errors could have affected the outcome. *Hite v. Local Union 633*, 4 PRB 356, at 358 (1984).

Furthermore, appellants' protest to the Election Committee's handling of the verification of challenged ballots should have been made at the time of the alleged error when steps could have been taken to address the problem. In *Hite, supra*, this Board considered a claim by challengers that they were not able to observe the tabulation of the ballots. The opinion states:

"...Other conduct challenged by appellants such as the alleged inability of watchers to view adequately the counting process, concern conduct which must be challenged at the time of its occurrence. A candidate or candidates may not observe an improper election practice, fail to protest it at the time of its observance, and then assert it as a basis for setting aside the election should the results prove to be unfavorable."³⁰

The other issue raised by Jones about the election worker's failure to clear her computer prior to recording the votes was addressed at the time it was raised and had no affect on the outcome of the election. Jones also complained that she was not allowed to run tests on the voting machines prior to the election, but she has not produced any evidence that the election machines malfunctioned or that additional tests would have uncovered a problem with the machines or the ballots.

After independently verifying both the challenged ballots and the vote in two general election races, the IEB reasonably concluded that neither a full recount nor a new election were necessary.

D. Rebuttal by Randall Pearson:

At the end of the recount on August 26, 2008, when it was determined that over 300 ballots were missing, Administrative Assistant Stokes-Wilson stated that if the City of Detroit did not have the missing ballots we could only assume that the voting machines malfunctioned or that the ballots were lost. On September 3, 2008, Stokes-Wilson announced that the City of Detroit only had blank ballots. She then ordered the Local Union storage room to be searched a second time for the missing ballots. Lo and behold, the missing ballots were found in an empty ballot box. I find it hard to believe that on August 26, 2008, it was determined that over 300 ballots were missing while an election worker had unused ballots in her possession for over three months. Then, over

³⁰ *Hite, supra*, at 359.

the long Labor Day weekend, the missing ballots are found at the Local Union hall. The integrity of the May 13, 2008, election has been compromised to such an extent that a new election must be ordered.

DISCUSSION

The apparent discrepancy in vote totals caused by the election worker's failure to clear her computer, which occurred briefly during the runoff election on May 21, 2008, had no effect on the outcome of any of the races and requires no remedy. Once it was discovered, the problem was immediately corrected. Jones does not suggest that the incident was anything other than an innocent mistake.

Appellants' challenge to the general election rests primarily on the Election Committee's failure to communicate clearly its procedure for validating challenged ballots prior to the voting. Because no advance communication had been provided to challengers about the validation process, when the time came to validate challenged ballots, Election Committee Chairperson Harper had to describe the procedure to the challengers in a noisy, crowded room where few people were paying attention to him. Under these circumstances, it is not surprising that many of the challengers did not hear the information about the validation procedure or the offer to go to the front office and observe the process. Nevertheless, at least five challengers did hear the announcement and one accepted the offer to observe the validation process. Jones stated that she found it hard to believe only one challenger accepted the offer to view the process, but there is no basis for doubting the veracity of the statements given by those who did hear the announcement.

To support her argument that the Presidential and Recording Secretary elections should be rerun, Jones pointed out that the number of challenged ballots could have affected the races in which she and Randall Pearson were candidates by forcing a runoff. During her investigation of Jones' and Pearson's appeal, Stokes-Wilson agreed to a manual inspection of the challenged ballots because of the problem that occurred in communicating the validation procedures to the challengers. Stokes-Wilson reasonably assumed that it would be a simple matter to check the validity of the challenged ballots and in that manner address Jones' concerns about the validation process. Unfortunately, Stokes-Wilson's investigation revealed that the Local Election Committee had not properly secured the election materials following the election. Envelopes containing challenged ballots had been discarded. People apparently removed ballots from the sealed container without the knowledge or presence of Election Committee members. At one point, it appeared that over 300 ballots were missing.

The *UAW's Guide to Local Union Election Committees* gives detailed instructions to Election Committees on how election materials should be preserved. The recommendations in the *Guide* were not followed in this case. In the future, this Local Union should take care to secure all election materials after the voting is completed so that any election protests can be more easily resolved. We have observed, however, that the recommendations set forth in the *UAW's Guide* are not the equivalent of

Constitutional or statutory requirements and deviations from these procedures do not provide grounds for overturning Local Union elections.³¹ As the International Union stated in response to this appeal, there is a presumption that Local Union elections are valid and the results of an election will not be disturbed in the absence of clear and convincing evidence that errors occurred which could have affected the results of the election.³²

We confronted a situation similar to the one revealed by Stokes-Wilson during her investigation of Jones' and Pearson's appeal in *Williams and Brown v. International President*, PRB Case No. 1540, (2006). Our decision in that case described the following problems with the Election Committee's handling of the election materials:

"There is no question that serious errors occurred after the initial count of the votes cast in the Local 919 election. The Election Committee apparently had not formulated any plan for securing the printouts and vote tallies after the initial count. All acknowledge that the Election Committee's failure to seal the election materials in some fashion prior to the recount was improper. In addition, it was a mistake for Norfleet to examine the election materials without the other members of the Election Committee being present. ..."³³

Despite these serious problems with the handling of the election materials, we concluded in *Williams and Brown* that the election results should not be disturbed, because there was no independent evidence to support a conclusion that the Election Committee's mishandling of the election materials altered the results of the election in any way. In this case, the violation cited by appellants in the actual election was a minor procedural lapse. There was no direct evidence that any challenged ballot was improperly counted or that any eligible voters were disqualified. The problems uncovered by President Gettelfinger's staff took place after the votes in this election were cast and so cannot have affected the outcome of the election.

Administrative Assistant Stokes-Wilson reported that she did eventually recover all of the ballots so that the results of the recount of the ballots in the Presidential and Recording Secretary races were consistent with the election results reported to the membership. Under the UAW Constitution, it is the role of the IEB to conduct evidentiary hearings on appeals from a decision of the membership not to order a new election. Such hearings are generally conducted by members of President Gettelfinger's staff who then prepare a decision on his behalf. In accordance with the procedure described in Article 33, §3(d), this decision is circulated among members of

³¹ *Baxter v. UAW Local 659 Executive Board*, 11 PRB 263 (2001).

³² *Salisbury, et al. v. Local Union 892, UAW*, 3 PRB 73, (1980); *Trick v. Local Union 212, UAW, supra*; *Martin and Pierce v. Local Union 624, UAW*, 8 PRB 411 (1994); *Haddad and Burcicki v. Local Union 157, UAW*, 9 PRB 307, (1997) .

³³ *Williams and Brown, supra*, at 16.

the IEB and becomes the decision of the IEB unless a member objects to it within ten days.³⁴ In this case, Administrative Assistant Stokes-Wilson conducted the evidentiary hearing on behalf of President Gettelfinger. She had an opportunity to examine the physical ballots and she concluded that the ballots found in the ballot container at the Local Union were the actual ballots cast in the runoff election. As an appellate body, we must rely on the findings of fact made by those who have heard the testimony of witnesses and examined the evidence unless there is compelling evidence to contradict those findings.³⁵ There is no such evidence in this record.

The decision of the IEB is affirmed.

³⁴ Article 33, §3(d) provides, in pertinent part, as follows:

“Review By the Full International Executive Board.

Both where the appeal has been decided by the Nine (9) Member Committee of the International Executive Board and where it has been decided by the International President, copies of the decision shall be sent to all members of the International Executive Board. The decision shall become the decision of the full International Executive Board unless, within ten (10) days, one or more members of the International Executive Board raises an objection to the decision, in which case the appeal shall be referred for decision to the International Executive Board at its next regular meeting. ...”

³⁵ *Sarkissian v. Local Union 6000, UAW*, 5 PRB 624 (1989); and *Sasaki v. UAW-GM Department*, 10 PRB 548 (1999).