

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

APPEAL OF:

SUSAN A. LAURIN,

Appellant

-vs-

CASE NO. 1661

UAW LOCAL UNION 6000 EXECUTIVE BOARD
(Lansing, Michigan)
REGION 1D, UAW
(THE UNITED AUTOMOBILE, AEROSPACE
AND AGRICULTURAL IMPLEMENT
WORKERS OF AMERICA),

Appellee.

DECISION

(Issued October 14, 2011)

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

Susan Laurin argues that improper practices occurred during the triennial elections conducted by UAW Local Union 6000 which could have affected the outcome of the race for Local Representative for Region 1D South.

FACTS

Susan Laurin is a member of UAW Local Union 6000 which represents employees of the State of Michigan. Local 6000 conducted its triennial election of officers in 2010. Laurin was a candidate for Local Representative for Region 1D South.¹ The race for Local Representative in Region 1D South produced the following results:

¹ Record, p. 7.

Gordon Ryskamp, MSW	406
Juanita 'Juan' Glover	197
Celia C. Ontiveros (Selya)	305
Susan A. Laurin (Sue)	179 ²

Gordon Ryskamp and Celia C. Ontiveros, the two candidates receiving the plurality of votes cast, were elected.³

The employees represented by Local 6000 reside throughout the state in three separate UAW Regions, Region 1A, Region 1C, and Region 1D. For this reason, the Local conducts its elections by mail. Official ballots were mailed to the membership on March 5, 2010, in accordance with a schedule established by the Local 6000 Membership Council. The ballots were to be returned by March 31 and counted on April 1, 2010.⁴ On March 12, 2010, however, Election Committee Chairperson Mary Ettinger addressed a letter to the Local 6000 Executive Board and the candidates in Region 1D South explaining that some members had not received a ballot for Representative of Region 1D South. Ettinger stated that as a result, the Election Committee decided to rerun the Region 1D South election. Her letter states:

“By now, you are aware that an error was made and some members received a 1A Membership Council ballot, but not a 1DS Local Representative ballot. Because we had no idea of who received what ballot, the decision was made to re-run the entire 1DS election.

New ballots with new numbers are being mailed with “Replacement Ballot” on the outside envelop. The ballot that was mailed first will be voided without being opened.”⁵

The Local 6000 Membership Council considered the problem identified in Ettinger’s letter during a meeting on March 13, 2010. The Council adopted the following motion:

“Motion by Jim Walkowicz that the Election Committee not re-run the triennial election, and furthermore, that a communication be put on the Local 6000 website informing members to contact the Election Committee if they believe they need a replacement ballot. And that letters be sent to all members that received Election Committee letter dated March 12, 2010.

Second by Otis Florence-Butler

² Record, p. 52.

³ Record, p. 152.

⁴ Record, p. 24.

⁵ Record, p. 28.

Motion Passed.”⁶

Laurin attended the Membership Council meeting on March 13, 2010, during which this motion was adopted. After the meeting, she sent an email to Local 6000 President Ed Mitchell asking for an explanation of the action taken by the Council. Laurin stated that she had not received Ettinger’s March 12 letter at the time of the Council meeting so that she did not know what had actually happened. She said that it was reported at the Council meeting that no member failed to receive a ballot, but that some received the wrong ballot. The Council determined that this problem could be addressed by disqualifying any ballots cast by ineligible voters when the votes were counted. Laurin pointed out that the basis for the Council’s action was different from the situation described in Ettinger’s letter. Ettinger had reported that some members did not receive a ballot for Region 1D South.⁷ President Mitchell responded to Laurin on March 16, 2010, as follows:

“It is my understanding, after my conversation with a member of the Election Committee, that everyone in Region 1D did receive the correct ballots. Some members received too many ballots. Mary made the decision to send the letter to rerun the election for Region 1D South after we had agreed to do something different. Mary decided to do something different. She never discussed what she was doing with the officers of the Local as required by the election rules.”⁸

On April 7, 2010, Laurin filed an election protest with Local 6000 Recording Secretary Sandra Masarik. In support of her protest, Laurin asserted that there was a strong possibility that some members of Region 1D South did not receive a ballot to vote for Representative for that Region. Laurin attached to her protest Mary Ettinger’s letter as well as her email to President Mitchell. She stated that she had spoken with Ettinger after receiving Mitchell’s email and that Ettinger reported that Mitchell had approved her method of dealing with the ballot problem in Region 1D South.⁹ In addition, Laurin wrote that those present when the votes were counted reported that a large number of ballots were not counted. Her protest states:

“It has come to my attention the possibility exists that a large number of votes were not counted, quite possibly several thousand, for whatever reason. While only 3,696 votes actually were counted in the presidential position alone, it has been reported by those in attendance during the counting procedure that this year’s election drew a large amount of voter ballots, and that approximately 7,000 ballots were, in fact, received by the Local, almost twice the number actually counted. This is definitely too

⁶ Record, p. 30.

⁷ Record, pp. 32-33.

⁸ Record, p. 32.

⁹ Record, p. 57.

large a number to be dismissed lightly without a revalidation/investigation re-count.”¹⁰

Two challengers, Carla Turner and Elizabeth Dieter, submitted statements alleging that a large number of ballots were not counted. The challengers’ statements refer to a “problem box” which they claim contained a large number of ballots that were not counted and a second box of mail that the Election Committee removed from the room without giving the challengers an opportunity to examine its contents. Turner and Dieter submitted the following identical descriptions of this situation:

“I clearly saw that Mary and others were definitely rooting for Mitchell and his crew. The ‘problem box’ was pretty full! We (the challengers) kept having to ask the election staff why different piles of ballots were not being counted. Mary Ettinger, who was in charge, kept pretending not to hear us. They also had a huge box of ballots that they called, ‘the problem box’ but we never got a chance to see what the so-called problems were. I do believe that if most of the ballots that were not counted had been counted, it could very easily have been a different outcome. There was also a box of mail that they claimed they were taking back to the post office later because they were addressed to someone else. Again, we were not able to look into the box to see if what Mary told us was true. How much would you bet that those boxes held ballots from Wayne County? Just a thought. ...”¹¹

The two challengers also complained about the disqualification of ballots by the Election Committee because the signature on the back of the envelope was illegible. They wrote:

“...They disqualified hundreds of ballots just on the fact that they claimed they couldn’t read the signature on the back of the envelope. The challenger challenged that and stated just because you can’t read it, maybe one of us could. Mary stated that is the ‘Election Committee policy’ and we are not going to go against policy. We were not allowed to touch the ballots. That disqualification system has to be looked at and some new blood has to be put on that Election Committee. ...”¹²

Elizabeth Dieter filed an election protest based on these claims.¹³ The record contains protests from several other candidates also citing, among other things, the problem with

¹⁰ Record, p. 57.

¹¹ Record, pp. 55 and 56.

¹² Record, pp. 55 and 56.

¹³ Record, pp. 83-85.

the ballots in Region 1D South and the charge that a large number of ballots were not counted.¹⁴

The CPA firm Flintoff & Klein certified the tabulation of the ballots for Local Union 6000. Flintoff & Klein reported that ballots in the general election were disqualified for the following reasons:

PROBLEM	# OF BALLOTS
1. No valid signature	37
2. Wrong names/signature	12
3. Nomination forms returned	19
4. No secret ballot envelope	55
5. Duplicate/already voted	1
6. No votes	133
7. Write in votes	1
8. <u>Over voted</u>	<u>13</u>
TOTAL	271 ¹⁵

The ballots in Region 1D South were counted separately and the CPA firm reported the following problems with those ballots:

PROBLEM	# OF BALLOTS
1. No valid signature	9
2. No secret ballot envelope	8
3. Ratification ballot	1
4. No votes	42
5. <u>Over voted</u>	<u>13</u>
TOTAL	61 ¹⁶

The Election Committee responded to Laurin's appeal in a report to the Local 6000 Executive Board on May 4, 2010. In response to Laurin's claim that the Election Committee only counted 3,696 of 7,000 ballots received, the Election Committee explained the situation as follows:

¹⁴ The documents forwarded with Laurin's appeal included protests from the following candidates: Christine Ellis, Kim Leonard, Dennis Burdick, John Stafford, Juanita Glover, Greta Campbell, Dorothy (Dotty) Dilsaver, Marcy Shepler, and Juanita Ademodi. (64-68, 69-71, 72, 81-82, 88-89, 90, 91-93, 94-95, 96, 103) Dennis Burdick, Susan Laurin, Kim Leonard, Dotty Dilsaver, and John Stafford appealed to the IEB but only Laurin appealed the IEB decision. The other candidates did not join in this appeal to the Public Review Board.

¹⁵ Record, p. 54.

¹⁶ Record, p. 54.

“The election did have a larger turnout than in the past. However, there were 18 [ballots] with 94 names on the different ballots. All members did not vote for all of the positions they were eligible to vote for so it gave the illusion that more ballots were submitted than were counted.”¹⁷

The Election Committee stated that the ballots for Region 1D South were counted separately from the other Regions. They reported that approximately 35 ballots for the Region 1A Membership Council were found among the ballots for Region 1D South Representative, but that these ballots were not counted. The Election Committee asserted that all necessary precautions were taken to ensure a fair election and they recommended that Laurin’s appeal of the election be denied.

Election Committee Chairperson Mary Ettinger also responded to the protesters’ complaints in an article published in the May 2010 edition of the local union newspaper, *Newsbreak*. Ettinger’s article, titled, “Did We or Didn’t We,” reported that the Local 6000 triennial election had the largest turnout ever, although that was not apparent from the number of votes reported. Once again, Ettinger stated that the fact that all members did not vote for all the positions they were eligible to vote for created the illusion that more ballots were submitted than were counted.

Ettinger explained the reason why some of the ballots were not counted. She reported that 76 ballots were returned to the Local because the member’s address was incorrect and she encouraged members to provide the Local with current addresses. Ettinger also reported that a number of voters did not sign the back of the envelope which contained their ballot and that these ballots were not counted. She wrote:

“For those of you who do not sign the back of the return envelope because you do not want anyone to know how you voted, you succeeded because without a signature on the envelope, it is never opened or counted. We do check the membership roster to make sure the member is eligible to vote; one person takes the secret ballot envelope out of the return envelope; another person takes the ballots out of the secret ballot envelope. Therefore, it is next to impossible for anyone to know how a member voted. Forty-six ballots came in without a signature.”¹⁸

With respect to illegible signatures, Ettinger reported that if the Election Committee can make out one or two of the letters in the name signed on the envelope, the ballot is counted. She said some of the names on the ballots were different from those on the membership roster because the member’s name had changed. She reported that 12

¹⁷ Record, p. 108.

¹⁸ Record, p. 124.

ballots were disqualified for that reason. Sixty-three ballots were disqualified because they were not in the secret ballot envelope. Ettinger explained this decision as follows:

“It is always a debate if the ballots that are not in a secret ballot envelope should or should not be counted. A motion was made by the Election Committee years ago not to count them and they have not been counted since then. There were 63 not in a secret ballot envelope.”¹⁹

Ettinger reported that the Local received a number of ballots with no votes marked on them. She commented:

“We cannot forget the members who protested by not voting, but sending their ballots in blank. One way to look at that is to remember it is your dues monies that are used to conduct elections. For this election, we had 175 ballots sent back without voting.”²⁰

Finally, Ettinger stated that some ballots were disqualified because the member voted for more candidates than the number indicated on the ballot.

Ettinger also commented on the box of mail described in the challengers’ statements that was returned to the post office. She wrote:

“For this election, we also had a large number of envelopes that were for another company and put in our post office box in error by the post office. I am sorry to say we did not count them and did not let the challengers see them to know they were not ballots.”²¹

In closing, Ettinger responded to the challengers’ complaint that she pretended not to hear their questions about why various ballots were not being counted. Her article states:

“In closing, I am asking for a point of personal privilege. I do have a hearing problem, but I am too vain to wear a hearing aid. So I apologize to anyone who spoke to me or asked a question and felt I ignored them. Now you know why.”²²

The Local 6000 Executive Board considered Susan Laurin’s protest along with 11 other election protests, at a meeting on May 18, 2010. The Executive Board adopted a motion to accept the recommendation of the Election Committee with regard

¹⁹ Record, p. 124.

²⁰ Record, p. 124.

²¹ Record, p. 124.

²² Record, p. 124.

to Laurin's protest. Similar motions were passed in response to the other protests presented.²³

Laurin appealed the decision of the Local 6000 Executive Board to the International Executive Board (IEB) on June 3, 2010.²⁴ Laurin attached to her appeal the following statement from Local 6000 member, Judy Potter:

"I did receive a ballot with your name on it. I wondered if it was right, but did not know. I thought the Election Committee knew what they were doing, so I used it."²⁵

Laurin observed that Potter should not have received a ballot for Region 1D South. Laurin maintained that Potter's ballot was disqualified as a result of this error and she was denied the right to vote. Laurin commented:

"...Sister Potter should not have received a 1D South ballot. Because of incorrect ballot mailings, Sister Potter and other Local 6000 voting members were denied their vote, due to their ballots being spoiled through no fault of their own! Most members are unaware if they received incorrect ballots or not. Recording Secretary candidate Dotty Dilsaver also received an incorrect ballot involving Region 1C and 1A and was fortunate to realize something was wrong. Dotty has documented this in her own election protest/complaint sent to Local 6000 in which she was instructed to contact the Election Committee. However, Dotty could not get anyone from the Election Committee to call her back in order to get the correct ballot mailed to her so she could even vote! As a result, Dotty could not risk having her entire package of ballots spoiled by going beyond the ballot deadline return date, so she was forced to mail in the correct ballots she already had! This is outrageous and unacceptable!!!"²⁶

Laurin pointed out that Election Committee Chairperson Ettinger acknowledged in her letter of March 12, 2010, that members of the Election Committee did not know who had received which ballots and that a decision had been made to rerun the entire Region 1D South election, as a result.

Laurin stated that when the Local 6000 Membership Council voted to overturn Ettinger's decision to rerun the election in Region 1D South, she thought that any incorrect ballots would simply be removed during tabulation of the votes and she agreed that this was a better solution than trying to convince people to submit new ballots. She continued:

²³ Record, p. 113.

²⁴ Record, pp. 120-124.

²⁵ Record, p. 110.

²⁶ Record, p. 120.

“However, I did not know at the time that wrong ballots were also mailed to other union districts, not just 1DS. I also did not know that the Election Committee would not follow the Membership Council’s decision to simply remove and not count any returned incorrect district ballots, and that they would instead spoil the member’s whole ballots!”²⁷

Laurin reported that the Election Committee failed to carry out the directions of the Membership Council in that they did not immediately post a message on the Local Union’s website informing members who had received the wrong ballot to contact the Election Committee for a new one. When the message finally was posted, it did not clearly explain the problem. In addition, the Election Committee never sent a letter informing members who had received Ettinger’s letter that the Region 1D South election was not going to be rerun.²⁸ Laurin referred to her email correspondence with President Mitchell attempting to determine whether the information in Ettinger’s letter was correct. She reported that she called Ettinger after she received Mitchell’s response and read the response to her. According to Laurin, Ettinger claimed that Mitchell was present when the decision was made to rerun the Region 1D South election.

Laurin attached a copy of Ettinger’s article from *Newsbreak* to her appeal. She pointed out that Ettinger admitted that she removed a large box of envelopes from the room where the votes were being counted in order to return them to the post office without allowing challengers to look in the box. Laurin commented:

“...She actually admits to not letting the challengers see a box containing ‘a large number of envelopes,’ and admits to this box being taken out of the room back to the post office. This constitutes an illegal election!! Nothing should leave the election room in this manner. Her explanation is that they were not ballot envelopes, but rather were ‘for another company, and were put in our post office box in error by the post office.’ In spite of her claim, election challengers were not allowed to look and see for themselves! Why? Because there were ballots in the box! On 5-20-10, I investigated this myself and called Supervisor Kelly Lott (517-337-8715) at the Collins Road post office where the triennial election ballots were mailed and picked up by the Election Committee. I read to Ms. Lott what Mary Ettinger was maintaining happened. Ms. Lott indicated to me it is unlikely that a large number of envelopes meant for another company were put in the Local 6000’s P.O. Box in error by the post office! She said she could see ‘three or four wrong envelopes maybe, but not a large number’ as Mary Ettinger maintains. Ms. Lott obviously knows the

²⁷ Record, p. 120.

²⁸ Record, p. 121.

competence level of her postal employees and verified they would not make a repetitive mail sorting error as Mary Ettinger claims. ...”²⁹

In addition, Laurin argued that the Election Committee’s explanation of the difference in the number of ballots received and the number of votes counted did not account for the 2,800 ballots that were not recorded. She stated that 7000 ballots were received by the local and only 3,696 voted for president. Laurin found it improbable that such a large number of members would choose not to cast a vote in the race for local union president.³⁰ Laurin further argued that Ettinger’s reluctance to wear a hearing aid did not excuse her from responding to the challengers’ questions. With respect to Ettinger’s acknowledged hearing loss, Laurin wrote:

“...This constitutes another major election violation. Obviously, vital communication during the election count was lost as a result of our election chair’s hearing loss, which resulted in her being inaccessible for the benefit of everyone present, including challengers. This fact further diminishes the assurance of a fair, honest, democratic union election. She obviously then should not chair any further elections so that this does not happen again.”³¹

Laurin concluded her appeal by asking the IEB to order a new election. She wrote:

“...Now it is in your hands to help us correct our Local by making the right ruling decision and to get a fair and honest election once and for all. The fact is at least 2,800 or more unaccounted ballots are enough votes to change the outcome of this election in many areas. Our members have the right to have their vote counted, the right to decide who will represent them in their vote, and the right to democracy, regardless of the outcome.”³²

On August 23, 2010, President King’s Administrative Assistant Eunice Stokes-Wilson conducted a hearing to investigate election appeals submitted by Local 6000 members Susan Laurin, Dennis Burdick, Kim Leonard, Dotty Dilsaver, and John Stafford.³³ Acting on behalf of President King, Stokes-Wilson reported the results of her investigation to the IEB. Stokes-Wilson explained that ballots were mailed to the members of Local Union 6000 in accordance with a schedule adopted by the Membership Council. Because the Local has members in three UAW Regions, most

²⁹ Record, pp. 121-122.

³⁰ Record, p. 122.

³¹ Record, p. 122.

³² Record, p. 123.

³³ Stafford is listed in Stokes-Wilson’s report as having appeared on behalf of the Local Union because that is how he identified himself on the appearance sheet, but he was actually an appellant. (Record, pp. 138, and 145.)

members received multiple ballots. All members received the ballot for executive officers. Members also received a separate ballot for local and regional representation positions in their particular Region.³⁴ The ballots were mailed by a company commissioned by the Local Union. During the process of mailing the ballots the Election Committee discovered that some members from Region 1D South received a Region 1A Membership Council ballot. This discovery prompted Election Committee Chairperson Mary Ettinger to issue her letter of March 12, 2010, declaring that the election in Region 1D South would be rerun.³⁵ The Membership Council felt this step was not warranted by the circumstances, however, and on March 13, the Council overturned Ettinger's decision.³⁶

Stokes-Wilson's report to the IEB addressed Laurin's concern about the wrong ballots being sent to members of Region 1D South. She wrote that the Local estimated approximately 35 members of Region 1D South received ballots intended for members of Region 1A as well as ballots for Region 1D South Representative. She noted that the Region 1A ballots returned by members in Region 1D South were voided. She observed that in order for Laurin to establish that this error affected the outcome of the race for Representative of Region 1D South, based on the margin of victory by the successful candidates, she would have to establish that at least 100 members of the Region did not receive the appropriate ballot. According to Stokes-Wilson's report, Laurin did not identify any member entitled to vote for the Region 1D South Representative who had not received a ballot.³⁷

Stokes-Wilson's report also addressed the challengers' complaints about the box of mail that was returned to the post office. Her report states:

"Laurin said, 'She admitted that she did not let challengers see the mail that was taken away.' Chairperson Ettinger stated at the hearing that no one asked to see the bin containing the mail that did not belong to Local 6000. Ettinger explained that after each election she considers the issues raised and considers them teaching moments when warranted by the circumstances. She states during the counting for future elections, challengers will be given the opportunity to inspect any mail returned to the post office. There were so many letters that did not belong to Local 6000 and she could not imagine anyone suggesting that the Election Committee would disregard any mail properly addressed to Local 6000. She said the number was high, but nowhere near the 3,000 number implied by the appellants."³⁸

³⁴ Record, p. 144.

³⁵ Record, p. 144.

³⁶ Record, p. 145.

³⁷ Record, p. 152.

³⁸ Record, p. 154.

Stokes-Wilson found nothing to justify appellants' suspicion that the box of mail contained ballots. No motivation was suggested for why the Election Committee would indiscriminately decide not to count a large number of ballots. Stokes-Wilson remarked:

“...Appellants have failed to make a *prima facie* showing as to why the Election Committee would refuse to count valid ballots. Here we find that mail that did not belong to Local 6000 was placed in bins and returned to the post office, nothing more.”³⁹

In the conclusion to her report on the August 23 investigatory hearing, Stokes-Wilson held that appellants had not established that the errors they identified had affected the outcome of any of the races in the Local 6000 triennial election. Nevertheless, she found that the CPA firm employed by the Local Union did not complete a true reconciliation of the ballots. Stokes-Wilson therefore scheduled a meeting to complete such a reconciliation.⁴⁰ Following the meeting on September 13, 2010, Stokes-Wilson entered a memorandum into the record reporting that 3,926 ballots were counted by the Election Committee. Of these, 121 were voided, 175 were blank ballots, and 14 were over votes.⁴¹

Based on her investigation, Stokes-Wilson determined that the results of the triennial election conducted by Local Union 6000 reflected the will of the electorate. She recommended that the appeals filed by Laurin and the other members of Local 6000 should be denied.⁴² The IEB adopted Stokes-Wilson's report as its decision on April 19, 2011.⁴³

ARGUMENT

A. Susan A. Laurin:

The report to the IEB on my appeal omits several important statements made during the hearing on August 23, 2010. John Stafford testified that he observed ballots being removed from the counting room while the election was still in progress. The CPA said that he was removing the boxes of counted ballots from the room to get them out of the way. Stokes-Wilson responded to this testimony by saying that the CPA should not be removing ballots from the counting room. Stafford also reported that the counting of the ballots was stopped several times because the ballot counter broke down. The numerous breakdowns in the ballot counter by itself raises a red flag.

³⁹ Record, p. 154.

⁴⁰ Record pp. 155-156.

⁴¹ Record, p. 137.

⁴² Record, p. 156.

⁴³ Record, p. 142.

The report to the IEB also fails to mention my testimony regarding my conversation with the post office supervisor about the claim that mail addressed to another company was placed in the box for Local Union 6000. Supervisor Lott stated this was extremely unlikely. During the IEB hearing, I testified that I went to a second post office in Chesaning, Michigan, to get a second opinion regarding Mary Ettinger's claim that Local 6000's mail box contained a large number of envelopes addressed to another company. Postmaster General, Judy Haggadorn stated to me, "No, that doesn't happen!" She explained that postal employees are especially observant when it comes to sorting election ballots. She went on to explain how each item of this type is read and hand sorted. None of this testimony is reflected in Stokes-Wilson's report to the IEB.

Finally, the IEB's report does not acknowledge the undisputed fact that the ballot count did not add up. Mary Ettinger could not provide a count of all the returned ballots during the hearing on August 23, because she had not recorded that information. There is no way to verify the tabulation of the votes without a complete record of all the ballots returned. Despite these circumstances, Stokes-Wilson would not consider the possibility that Mary Ettinger was guilty of election fraud. At one point during the hearing as I was speaking about the ballots being removed from the counting room, Stokes-Wilson asked me how I knew there were ballots in the box that was removed. I replied that I knew there were ballots in the box because Ettinger did not let the challengers look in the box. I knew right then and there that our appeal would be denied. Ettinger's word and excuses would be accepted by the International Union regardless of the evidence and there would be no new election.

I disagree with the Stokes-Wilson's presumption of Ettinger's innocence. Stokes-Wilson stated one would be hard pressed to come up with a reason why Ettinger would remove a box of ballots from the counting room. On the contrary, most of the appellants, especially those who are long-time members of Local 6000, are familiar with the tactics of the ruling caucus. We are not at all hard pressed to understand why the Election Committee would not want to count certain ballots, especially if these ballots are votes for candidates from another caucus. Mary Ettinger is not only a member of the same caucus as most of the incumbents; she is also a past president of Local Union 6000 from that caucus. In addition to supporting members of their own caucus, some members on the Election Committee are working in paid appointed positions at the Local Union under the incumbent caucus. Job security for these people is strengthened when their own caucus is in control. It is easy to understand why these Election Committee members would also want their own caucus to win.

I am driven to pursue this appeal by the fact that many Union members did not get their votes counted. This is very disturbing to me because these members' dues are paying these officers' salaries. Fraudulent election practices amount to a kind of theft. In addition, such practices contravene the Union's democratic ideals. This has been going on for the past three elections. The ballot box keeps breaking down. Then one of the cronies goes over there with a screwdriver to fix it after they figure out what

numbers they need. I realize that I cannot do anything about past elections, but I can do something now to fix not only this election, but future elections.

B. International Union, UAW:

It is well established that all Local Union elections are presumed valid. In order to rebut the presumption of validity, the challenger of election results must show by clear and convincing evidence that some improper practice occurred to such a degree as to affect those results. *Trick v. Local Union 212*, 6 PRB 103 (1990); *Alejandro v. Local Union 2244*, 13 PRB 429 (2007). Appellants in this case have failed to meet this burden.

The IEB agreed with the Local 6000 Membership Council that the incorrect ballots sent to members in Region 1D South could be remedied without mailing new ballots to each member of the Region. The ballots had not been counted when the error was discovered so the Election Committee was able to take precautions to ensure that members of Region 1D South voted properly. The ballots returned from Region 1D South were segregated. Approximately 35 members from Region 1D South returned ballots for both Region 1D South and Region 1A. The Region 1A ballots were voided. Appellants did not name a single member from Region 1D South who did not receive a ballot for the Region 1D South Representative election. Appellants have not established that this error affected the results of the election for the Representative from Region 1D South.

The IEB properly considered appellants' allegation that the Election Committee failed to account for a substantial number of ballots. The IEB's hearing officer conducted an independent investigation of this issue. After meeting with the Election Committee, the challengers, and the accountants, the hearing officer was satisfied that the number of ballots cast was properly certified and the election results matched up with the number of ballots cast.

With respect to the box of mail that was returned to the post office, the IEB's hearing officer found that no challenger objected to the removal of this box during the counting process. It was only after the election that appellants raised this issue. As this Board has observed, this type of conduct must be challenged at the time it occurs in order to provide grounds for upsetting the results of an election. *Hite v. Local Union 663*, 4 PRB 356 (1984), at 359. Moreover, although Laurin claimed that she called a supervisor from the post office and that this person told her it was unlikely that Local 6000 received a substantial amount of mail addressed to other parties, the hearing officer's decision to credit Ettinger's direct testimony on this issue, rather than Laurin's hearsay testimony from a post office employee, who apparently did no investigation, was plainly rational.

None of the other issues raised in Laurin's appeal would be grounds for rerunning the election in her Region. Laurin complained that the CPA removed boxes of counted ballots to get them out of the way. It is unclear how the removal of already

counted and tallied ballots could possibly have affected the results of the election. Laurin asserted that the breakdown of the ballot counting machines raised a red flag, but she did not explain how this problem affected the results of the election. Furthermore, no challenger objected to the method of fixing the ballot counter at the time that it occurred.

Laurin and the other appellants have failed to meet their burden of demonstrating that the outcome of Local 6000's 2010 triennial election was affected by any error or other impropriety.

C. Rebuttal by Susan A. Laurin:

The burden established by this Board in the *Trick* decision, cited by the International Union, was met in this case. There were numerous improper practices. Election Committee Chairperson Mary Ettinger admitted in response to questions from Administrative Assistant Stokes-Wilson that the Election Committee did not record the total number of ballots returned before the envelopes were opened and the votes counted. It is now impossible to perform an accurate reconciliation of the ballots.

Stokes-Wilson reports that she conducted a reconciliation of the ballots on September 13, 2010. Dottie Dillsaver's challenger, Connie Corbin, who was present on September 13, has informed me that ballots were not counted on that day. The ballots were not even removed from the storage boxes or checked in any way. This meeting amounted to nothing more than verifying and rubber stamping the Election Committee's ballot count. Stokes-Wilson knew prior to this meeting that Mary Ettinger had not counted all of the returned envelopes prior to opening them. Yet, Stokes-Wilson did not count all of the ballots that she had access to. I find this whole investigation to be one-sided and unprofessional. Even if ballots had been removed from their envelopes, Stokes-Wilson may have discovered evidence of election fraud if she had at least looked over all of the ballots that were there, including the ballots that were not counted. My challenger informed me that Stokes-Wilson said they did not need to bother with the box of disqualified ballots. Corbin also informed me that when she asked a question during the meeting on September 13, Stokes-Wilson was sharp with her and remarked that the issue had already been addressed and she would not discuss it again.

The International Union argues that the challengers to the vote count on April 1, 2010, did not ask to look inside the box that was removed from the counting room. This is not accurate. Chairperson Ettinger acknowledges that she did not allow the challengers to look inside this box. One basis for this appeal is the challengers' claim that Ettinger did not allow them to perform their jobs during the counting of the ballots. Ettinger did not let the challengers see what was in the box. What else can the challengers do but scream and yell and then be accused of disrupting the election process? The challengers did what they were supposed to do in this case, which was to report the situation to the candidates so that election protests could be filed. Challenger Liz Dieter will testify that the Election Committee did not respond to complaints raised by the challengers during the counting of the ballots.

Witnesses in support of this appeal are long-time members of Local Union 6000 who are sick and tired of election practices such as these. I and my witnesses are willing to testify and answer any and all questions the PRB may have to help put a stop to these fraudulent practices once and for all.

DISCUSSION

Chairperson Ettinger's letter of March 12, 2010, suggested that an undetermined number of members from Region 1D South did not receive a ballot for Representative of that Region. As a candidate for Representative from Region 1D South, appellant Laurin was naturally concerned that the problem with the ballots identified by Ettinger should be corrected. Laurin attended the Membership Council meeting on March 13, 2010, where the problem was addressed. She was advised at that meeting that all members of Region 1D South had received a ballot for Representative but that some members from that Region had also received a ballot for the Region 1A Membership Council. The Membership Council adopted a motion that any incorrect ballots submitted by Region 1D South members would simply be voided during the tabulation process. In her email to President Mitchell, Laurin agreed with the resolution to the problem adopted by the Membership Council. Laurin's protest of the election in Region 1D South was prompted primarily by the inadequacy of the Election Committee's report of the results of the election to the membership.

Although all of the candidates in Region 1D South had been made aware that the wrong ballot had been mailed to some members, the report of the Election Committee does not provide any information about how the problem was handled or how many ballots were disqualified as a result of the error. The election results indicate that the ballots from Region 1D South were counted separately, but there is no mention in the report about the mailing error. Furthermore, the Election Committee failed to count and record the number of returned ballot envelopes received from the post office so that there could be a reconciliation of the ballots. These omissions gave rise to speculation on the part of candidates and their challengers that more serious problems had occurred in connection with the mailing of the ballots and that more ballots were disqualified than those cast for Region 1A Membership Council by ineligible voters from Region 1D South. In her election protest, Laurin referred to reports that approximately 7,000 ballots were received by the local, while only 3,696 votes were recorded for the office of president. Another protestor, Dennis Burdick, asserted that the Local received 10,000 ballots.⁴⁴ If, in fact, such a large number of ballots had been received and were not accounted for in the Election Committee's report, then the entire triennial election would need to be rerun.

The Election Committee's response to the election protests did little to dispel rumors that a large number of ballots were not counted. The Election Committee's argument that the number of open positions created an illusion that the Local received

⁴⁴ Record, p. 72.

many more ballots than it counted does not answer the members' concerns about a potentially large number of spoiled ballots. The Election Committee should not have been talking about illusions, but reporting the precise number of ballots received and the number of those ballots that were disqualified. In addition, Chairperson Ettinger's failure to allow the challengers to examine the box of misdirected mail that was returned to the post office raised more doubts about the tabulation process. Ettinger testified at the hearing conducted by Administrative Assistant Stokes-Wilson that no one objected to the removal of this box during the counting process, but Laurin has asserted that they did object. Laurin has offered to provide the testimony of challenger Liz Dieter that the Election Committee did not respond to the challengers' concerns about the misdirected mail. The statements submitted by challengers Turner and Dieter immediately following the election support a conclusion that they were very concerned about the contents of the box of mail that was returned to the post office and that they wanted to examine the box to determine that there were no ballots in it. In her response to the various election protests, Ettinger acknowledged that she may not have heard the challengers' requests because of a hearing problem. It is the Election Committee's responsibility to take whatever measures are necessary to ensure that challengers' questions can be heard. The Election Committee's failure to respond to the challengers' questions about the problem box prompted further speculation that some deliberate deception was in progress.

In fact, the original problem with the ballots mailed to members of Region 1D South turned out to be a minor error that was easily corrected. In response to Laurin's protest, the Election Committee reported to the Membership Council that approximately 35 Region 1A Membership Council ballots were found among the ballots submitted by members from Region 1D South, and these ballots were not counted.⁴⁵ It is unfortunate that the Election Committee had to rely on an approximation of the number of ineligible ballots submitted by members of Region 1D South. A record should have been made of the number of ballots received and the physical ballots should have been retained among the election materials so that they could be examined in the event of an election protest. Nevertheless, there is no evidence that entire ballots were voided because of the ineligible ballot as asserted by Laurin in her appeal to the IEB, nor is there anything in the record that would support the claim that the Local received 7000 ballots. The conversations that Laurin had with various post office employees do not constitute evidence regarding the contents of the box that was returned to the post office. It seems likely that the Local Union was given someone else's box of mail when they picked up the ballots, rather than that a large number of sorting errors were committed by post office employees. If the box had contained ballots addressed to the Local Union, the post office would have attempted to deliver them again.

Administrative Assistant Stokes-Wilson conducted an independent reconciliation of the ballots as part of her investigation of this appeal and found that the local had

⁴⁵ Record, p. 108.

received a total of 4,047 ballots.⁴⁶ Of the ballots returned to the Local, 121 were voided because the Election Committee was unable to determine who submitted the ballot or the ballot was not in the secret ballot envelope. The number of these ballots that were disqualified was not unusually large and the Election Committee's decisions with respect to the ballots were consistent with the *UAW's Guide for Local Union Election Committees*. In the instructions for counting ballots in elections conducted by mail, the *Guide* recommends that the Election Committee void any ballot envelope that does not contain information that identifies the member as an eligible voter. The *Guide* also directs the Election Committee to decide in advance of the election whether to count ballots that are not placed in the secret ballot envelope. In this case, the Election Committee had established a policy not to count such ballots.

Laurin has complained that Stokes-Wilson did not conduct a manual recount of the ballots but instead relied on the Election Committee's ballot count to complete her reconciliation. She has offered the testimony of challenger Connie Corbin to confirm this process.⁴⁷ We cannot see any objection to Stokes-Wilson's reliance on the Election Committee tally sheets and membership rosters. After reviewing these materials, Stokes-Wilson was satisfied that the vote totals reported on the Election Committee's tally sheets equaled the total number of ballots cast in the 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.⁴⁸

As the International Union argued in response to Laurin's appeal, Local Union elections are presumed to be valid and in order for a challenger to rebut that presumption, it must be shown by clear and convincing evidence that some improper practice occurred to such a degree that it could have affected the outcome of the election.⁴⁹ Even though she has identified deficiencies in the election procedures, Laurin has not met this burden.

The Election Committee's failure to establish functional lines of communication with the challengers was a problem that should be addressed in future elections. The Election Committee's failure to count and record the number of returned ballot

⁴⁶ Stokes-Wilson's original memorandum to file regarding the reconciliation does not indicate the number of ballots that were returned to the local. On September 6, 2011, in response to an inquiry from our staff, Stokes-Wilson provided a further explanation of the results of the reconciliation. Of the 4,047 ballots returned, 3,926 ballots were counted, but 175 of these were completely blank, another 14 of the ballots contained votes for too many candidates. The total number of valid ballots counted was 3,737. Forty-one members did not cast a vote for president. (Record, p. 192).

⁴⁷ Record, p. 194.

⁴⁸ *Sarkissian v. Local Union 6000, UAW*, 5 PRB 624 (1989); *Sasaki v. UAW-GM Department*, 10 PRB 548 (1999); and *Jones and Pearson v. Local Union 140, UAW*, PRB Case No. 1620 (2009).

⁴⁹ *Salisbury, et al. v. Local Union 892, UAW, supra*; *Trick v. Local Union 212, UAW, supra*; *Martin and Pierce v. Local Union 624, UAW*, 8 PRB 411 (1994); and *Haddad and Burcicki v. Local Union 157, UAW*, 9 PRB 307, (1997); *Willaims and Brown v. International President*, 13 PRB 341 (2006).

envelopes received at the post office was a serious error which cast doubt on the accuracy of the election results. The Local Union should take steps to ensure that this error is not repeated.

However, Laurin's is the only appeal we received to the Local 6000 triennial election and the margin of victory in Laurin's race was not close. She would need to establish that a substantial number of ballots were mishandled in order to prevail. If a significant number of Laurin's supporters had not received a ballot for Representative from Region 1D South, surely some of these members would have complained. In fact, there is really no credible evidence in this record that the election results reported by the Election Committee were not accurate. The evidence establishes that the errors identified by Laurin in her original protest were corrected or else did not occur.

Laurin's arguments in support of her appeal to this Board are more concerned with the general deficiencies in the Local Union's election procedures and the composition of the Election Committee than the race for Representative of Region 1D South. Laurin states that Chairperson Ettinger is a member of the same caucus as most of the incumbents and that she once served as president of the Local as a member from that caucus. She argues that the past three elections conducted by Local 6000 have been influenced by the partisan behavior of this Election Committee and she asks this Board to help put a stop to the election improprieties that have deprived the Local Union's members of their right to a full share in Union self-government. In her appeal to this Board, Laurin raised for the first time the allegation that the Election Committee manipulated the operation of the ballot counting machine in order to affect the outcome of elections. After oral argument was denied on her appeal, Laurin submitted a detailed description of this problem by John Stafford.⁵⁰

These new allegations, while potentially serious, are not properly before us. A member challenging decisions made by a Local Union in regard to election procedures is required to follow the steps outlined in Article 33 of the Constitution before his or her appeal can be considered by this Board. These steps are designed to give all the parties involved an opportunity to have their arguments considered in an orderly way. Laurin's general complaints about the Election Committees' partisanship and the specific charge concerning frequent breakdowns of the ballot counting machine have not been investigated by the IEB and we have no record before us to review regarding these claims. Furthermore, even if Laurin established that her allegations were true, the remedy she seeks is not within our Constitutional authority. Laurin has requested that we put a stop to the Election Committee's fraudulent practices in future elections. As we observed in the *Lescoe v. UAW Local Union 900*, 12 PRB 594 (2005), there is nothing in the Constitution that authorizes this Board to supervise Local Union elections or to provide the kind of prospective relief requested by Laurin.⁵¹

⁵⁰ Record, pp. 188-190.

⁵¹ 12 PRB 594 (2005), at 606.

Article 38, §10(c) of the UAW Constitution mandates that all elections shall be held under the supervision of a democratically elected Election Committee. If, as asserted by Laurin, the membership of Local Union 6000 is truly sick and tired of the way elections are conducted by the current Local Union 6000 Election Committee, it is within their power to correct the situation. The remedy available to the membership is to elect a new Election Committee.

The decision of the IEB is affirmed.