

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

APPEAL OF:

RONALD R. PATENAUDE AND JOHN McGRATH,

Appellants

-vs-

CASE NO. 1705

LOCAL UNION 2322, UAW
(Holyoke, Massachusetts)
REGION 9A, UAW
(THE UNITED AUTOMOBILE, AEROSPACE
AND AGRICULTURAL IMPLEMENT
WORKERS OF AMERICA),

Appellee.

DECISION

(Issued October 7, 2014)

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

Appellants charge that improprieties occurred during the UAW Local Union 2322 triennial election of officers that could have affected the outcome of the races for president and sergeant-at-arms.

FACTS

Ronald Patenaude was the incumbent president and a candidate for president of UAW Local Union 2322 during triennial elections conducted on May 16, 2013. John McGrath was a candidate for sergeant-at-arms. UAW Local Union 2322 represents workers at the University of Massachusetts, Amherst (UMass). The races for president and sergeant-at-arms of Local 2322 produced the following results:

President

Ronald Patenaude	135
Jocelyn Silverlight	214

Sergeant-at-Arms

John McGrath
Eric Hoyt

92
192¹

On May 17, 2013, Local 2322 posted the results of the triennial election. The notice indicates that Jocelyn Silverlight was elected president and Eric Hoyt was elected sergeant-at-arms.²

On May 20, 2013, Ronald Patenaude filed a protest to the election with the Local 2322 election committee and the local recording secretary. In support of his protest, Patenaude argued that Jocelyn Silverlight and her supporters used union and employer resources to support Silverlight's candidacy in violation of the local union's election rules. Specifically, Patenaude charged that Silverlight announced her intention to run for president during a Graduate Employee Organization (GEO) meeting and that she used the GEO office to plan her campaign. Patenaude reported that notes from a GEO Steering Committee meeting referring to a discussion of Silverlight's campaign were found in a copier at the GEO office. In addition, Patenaude stated that the GEO Steering Committee meeting notes described a training program that was only made available to Silverlight's supporters. His protest states:

"The GEO Steering Committee meeting minutes 'approved' money for the Labor Center Training that was referenced in the meeting notes found previously in the GEO office. Paying for the training with union funds is I believe an improper use of union funds being used to support a candidate. (The GEO Steering Committee also consists almost entirely of GEO staff and Silverlight supporters.)"³

Patenaude charged that Silverlight also violated election rules by seeking the support of the Graduate Student Senate (GSS). He asserted that this was improper because the GSS is totally funded by the University. He stated that minutes of a GSS meeting reported that GSS members used a GEO membership list to send emails to members on Silverlight's behalf. Finally, Patenaude asserted that Silverlight promised jobs to members of the GEO staff who supported her. His protest states:

"There would appear to have been some horse trading or promises made to GEO members and staff who supported Silverlight as indicated by the push to hire or create jobs for several individuals including, Anders Minter, Danielle Alessio, Abby Templer, and Kevin Felton."⁴

¹ Record, p. 162.

² Record, p. 166.

³ Record, p. 169.

⁴ Record, pp. 169-170.

John McGrath filed a protest to the election with the Local 2322 recording secretary and the election committee on May 22, 2013. His protest summarized the same items described by Patenaude. It lists the following alleged violations:

“Use of UMass Amherst Campus property by Jocelyn Silverlight including use of an RA student dorm address for her campaign headquarters.

Improper access to emails from restricted UMass email lists that may have been obtained improperly.

Funding with union funds training for Jocelyn’s volunteers.

Improper access to membership lists by, among others, a RA who would have no right to access to GEO membership lists under any circumstances.

Improper participation by the Graduate Student Senate leadership and staff, an employer funded entity in the internal election process.

Possible promises of jobs to GEO members and former staff in exchange for supporting Silverlight.”⁵

On May 23, 2013, William Lloyd Williams, who identified himself as one of Silverlight’s supporters, submitted a letter to the Local 2322 election committee responding to Patenaude’s complaints. Williams denied that Silverlight had announced her candidacy during a GEO meeting and pointed out that such an announcement is not mentioned in any GEO meeting minutes. Williams stated Silverlight’s campaign meetings were always conducted off campus and that the GEO office was never used for this purpose.⁶ With respect to the training provided to GEO members, Williams explained that this training dealt solely with internal union organizing and had nothing to do with the election. Furthermore, Williams stated that the training was open to all. He wrote:

“...The workshop was free and open to all and was attended by Labor Center students, UAW 2322 members from GEO, the RA Union, the Servicenet shop and Ron Patenaude. Jocelyn Silverlight herself was not in attendance. Eve Weinbaum, director of the Labor Center and one of

⁵ Record, p. 174.

⁶ Record, p. 176.

the workshop facilitators, has already released the emails and documents personally requested by Patenaude which confirm these facts.”⁷

Williams stated that the membership lists used by the Silverlight campaign were based on public information or else the sender’s personal contact list.⁸ Williams provided a letter from Frank Jackson affirming this. Jackson’s letter states:

“I hereby wish to answer to possible allegations concerning the April 15th through May 15th triennial election. I set up the databases for Jocelyn’s campaign, and I wish to assure you that they are entirely membership built and publicly available. No resources of the union were used to construct any list used in the campaign. When contacted by the Election Commission, I offered to have the lists inspected but never received a response. If it is the wish of the membership I will happily disclose those lists for your inspection.”⁹

Williams denied that the GSS supported either candidate during the election. He pointed out, however, that the GSS is not an employer-funded organization, so the restriction on its involvement claimed by Patenaude would not apply. His letter states:

“The Graduate Student Senate officially remained neutral during the election and never endorsed a candidate. Moreover, GSS is not an employer funded organization; it is independent, entirely funded by UMass graduate students themselves, and therefore not subject to the regulations that Ron Patenaude suggests.”¹⁰

Williams argued there was no evidence that anyone was promised a job in return for supporting Silverlight. He wrote:

“Ron Patenaude has no evidence to support this accusation. On the contrary, there are minutes that predate the election period which document the GEO Steering Committee and Ron Patenaude discussing the creation of additional staff positions.”¹¹

On May 26, Patenaude submitted a request for copies of all emails exchanged by people involved in Silverlight’s campaign as well as any other documents related to his charges of improper campaigning. In addition, Patenaude requested a copy of

⁷ Record, p. 176.

⁸ Record, p. 177.

⁹ Record, p. 173.

¹⁰ Record, p. 177.

¹¹ Record, p. 177.

William's rebuttal to his election protest and an explanation for William's knowledge of the contents of his protest. Patenaude wrote:

"I am also requesting a copy of Jake Williams' 'rebuttal' to my initial challenge and ask that how that document came into his possession also be investigated. As my challenge was sent to the UAW 2322 recording secretary and the elections committee, I am unclear as to how it would have come into his possession, but have to assume that Silverlight, Doughty or someone else who may have had access through their position on the UAW 2322 executive board passed it on to him."¹²

Patenaude's and McGrath's election protests came before the Local 2322 Executive Board at a meeting on June 12, 2013. The minutes of that meeting reflect the executive board members' concern that it would be difficult for them to provide an unbiased review of the protests. The minutes report:

"Elections: Jocelyn reads aloud all of the protests against the past election process and discussion ensues. The e-board is torn over how to review allegations since they cannot be unbiased and have no evidence. The e-board called Karen Rosenberg for guidance on how to approach this situation. Rosenberg informed the e-board that we have to make a recommendation. After lengthy discussion, Erik Hopkins expresses that he feels uncomfortable ruling on these allegations. Luke states that he feels that these allegations should be dealt with seriously and were made in good faith and since we are the people who were elected a committee or membership should address the protests, not us. Jocelyn states that she feels like the e-board can't be unbiased and that the protests will continue. Luke offers that we could review the allegations and judge if the allegations were true could they have been able to change the outcome of the election? Erik states again that he feels that it is odd that this elected body needs to take a position on the matter. Jocelyn wonders who this decision ultimately goes to? Who evaluates the evidence, since the process is so unclear? Jocelyn said she thought those charging the protests needed to provide evidence. ..."¹³

Ultimately, Luke Pretz commented that the only complaint with any merit was the claim that membership lists were used improperly.¹⁴ On June 18, 2013, the executive board notified Patenaude that they had decided not to recommend a new election.¹⁵

¹² Record, p. 179.

¹³ Record, p. 205.

¹⁴ Record, p. 205.

¹⁵ Record, p. 207.

Patenaude appealed the local executive board's decision to the International Executive Board (IEB) on July 1, 2013. Patenaude had previously written to International President Bob King on May 30, 2013 expressing his dissatisfaction with the way the local union was handling his protests. He complained that members of the GEO were preventing a timely review of his protests.¹⁶ He raised this issue again in his appeal to the IEB. He wrote:

"My opponents' supporters also engineered suspending membership meetings for the summer under the claim that GEO would be disenfranchised as some members leave for the summer. This was just the most recent example of what those of us not from the GEO have been experiencing for years which has basically been the tyranny of the majority."¹⁷

Patenaude asserted that it was improper for the newly elected members of the executive board to rule on his protest because all but one of them were involved in Silverlight's campaign. Patenaude requested that President King assign a member of his staff to investigate his allegations about the election and to issue a ruling on whether the election should be vacated. Patenaude stated that he would take his complaint to the Department of Labor if he did not receive a response from the International Union. His letter states:

"Given the situation and my legitimate attempts to seek redress through the internal means and finding no relief, I would again respectfully ask that you either comply with my request or at least have the courtesy of responding with an opinion. Should I not hear from your office within 5 days of the receipt of this letter I feel I have no other choice but to contact the U. S. Department of Labor to ask that they investigate the matter."¹⁸

The Local 2322 Joint Council discussed the local executive board's handling of the election protests at a meeting on July 24, 2013. The minutes report:

"Discussion of why the election results have been handled in the manner that it has.

- John feels that it is inappropriate for the e-board to deal with the issues.
- Jocelyn says we are trying to follow the Constitution.
- Court points out that the Constitution is written with one-shop locals in mind so the role of Joint Councils is uncertain on this issue.

¹⁶ Record, pp. 182-184.

¹⁷ Record, p. 212.

¹⁸ Record, p. 213.

- John says that since the Joint Council is the next highest body, the election committee should report to the Joint Council. John also points out that we already have the election committee reporting to the membership meeting.
- Jocelyn suggests it is unreasonable to have the membership make the decision on the spot. But it is also problematic for people directly involved in the elections to make a ruling.
- Court and Nancy have reservations about having Joint Council make the decision regarding the elections because there will not be a full body.
- Nancy also suggests that this be brought up at the next membership meeting.”¹⁹

President King’s Administrative Assistant Eunice Stokes-Wilson acknowledged Patenaude’s appeal on August 1, 2013 and sent an inquiry to Local Union 2322 regarding the case. The local responded to the inquiry on August 29, 2013. On September 6, 2013, Patenaude wrote to President King that he had recently learned that the International Union intended to conduct a hearing on his appeal. He complained that he had not received any notice of this proposed hearing. He wrote:

“I am writing and inserting this new paragraph having just returned from the executive board meeting at UAW Local 2322 at which I learned that the UAW International has notified the local that the International will be holding a ‘hearing’ sometime the week of September 23rd. I have to say that I am quite amazed that the International is making these arrangements and has not had the decency to contact either of the challengers, John McGrath or myself. To say that it doesn’t instill a lot of faith in the internal process is an understatement and frankly only reinforces my belief that the International has no interest in seeing justice done in this case. (I do, however, believe it a moot point at this juncture given the UAW missed the timeliness for an internal investigation and that the DOL accepted our complaint and has begun an investigation.)”²⁰

In his letter to King, Patenaude also complained about Williams’ rebuttal to his protest and argued that it showed bad faith on the part of the local executive board members. He wrote:

“Bob, if you or anyone else is speculating that I am paranoid or that the individuals named would not engage in such behavior I would point out an issue which I believe also needs investigating. That being that a member of the UAW 2322 EB who was a supporter or friend of Silverlight’s provided my challenge to Jake Williams, the co-chair of Silverlight’s

¹⁹ Record, p. 231.

²⁰ Record, p. 255.

campaign committee, apparently within hours of the EB receiving the challenge from the UAW 2322 Recording Secretary Court Cline.

I had notified him per the UAW Election Challenge guidelines. The 3 members of the EB who could have or I believe might have been most reasonably likely to have provided the challenge were Silverlight herself, Derek Doughty, the other co-chair of Silverlight's campaign committee, or Danielle Alessio who was on staff at GEO.

Whether the action was 'illegal' or not, it certainly indicates a propensity by whoever was responsible of a flagrant disregard for at least maintaining the appearance of following rules or protocol or not engaging in a clear conflict of interest."²¹

Patenaude also complained that Region 9A Director Julie Kushner had become involved in the election campaign and had expressed support for Silverlight. His letter states:

"I do not blame Rosenberg and in fact feel she is a good person with a lot of integrity, but I understand the pressure I feel she has undoubtedly been put under by Director Kushner as evidenced by an event that was relayed to me by several individuals present or who had heard about the incident secondhand that when Kushner announced with great fanfare the election results at a UAW Region 9A staff meeting that, Jocelyn Silverlight is the new UAW 2322 President and 'she's going to be great,' Rosenberg was reported to have risen to make the point that the election is under challenge, but she was told to shut up, that 'no one is to help Ron, let him waste his money and two years of his time fighting it.'"²²

On September 20, 2013, the DOL issued a notice to Local Union 2322 and the UAW International Union that the Department had initiated an investigation of the May 16, 2013 election of officers at Local 2322. The notice identified the following findings as the subject of the Department's investigation:

1. UAW Local 2322 allowed for the use of union funds to promote the candidacy of Jocelyn Silverlight in that campaigning took place at a union meeting, a union photocopier was used, and a Silverlight supporter had access to a union membership list, in violation of Section 401(g) of LMRDA.

²¹ Record, pp. 255-256.

²² Record, p. 258.

2. UAW Local 2322 failed to provide adequate safeguards to ensure a fair election in that campaigning by one candidate took place at a union meeting in violation of Section 401(c) of the LMRDA.
3. Employer funds were used to promote the candidacy of Jocelyn Silverlight in that campaigning took place at a University of Massachusetts Graduate Student Senate membership meeting.
4. UAW Local 2322 failed to provide adequate safeguards to ensure a fair election in that 247 undeliverable ballot packages were returned to the union in violation of Section 401(c) of the LMRDA.”²³

On October 31, 2013, Administrative Assistant Stokes-Wilson wrote to Director Kushner about the status of Patenaude’s election protest and appeal. Stokes Wilson explained that after the local executive board ruled on the protest, the matter was properly before the IEB. After Patenaude took his protest to the DOL, however, the appeal was held in abeyance pending the outcome of that investigation. Stokes-Wilson wrote:

“Once the DOL starts their investigation, we hold our internal procedure in abeyance due to the possibility of inconsistent outcomes and complications related to two separate entities exercising jurisdiction over the same matter. It is for this reason we will continue to hold the IEB appeal in abeyance pending the outcome of the DOL investigation.”²⁴

The DOL determined that there was no violation of the LMRDA affecting the outcome of the election of officers at UAW Local 2322 and issued a letter describing the reasons for that determination on March 13, 2014. Patricia Fox of the Division of Enforcement reported that she interviewed Silverlight about the allegation that she had announced her candidacy at a meeting of the GEO. Silverlight denied that allegation but stated that there was a heated discussion during a GEO meeting about the contentious relationship between the GEO and UAW Local 2322. During this discussion, according to Silverlight, someone suggested that a GEO member should run for president.²⁵ Fox stated that the minutes of the March 28, 2013 GEO meeting did not reflect any announcement by Silverlight that she intended to run for president. Even if she had made such an announcement, however, Fox observed that as local union president, Patenaude had an equal opportunity to address the membership about his candidacy and that he did, in fact, announce that he intended to run during a meeting of the Local 2322 executive board on January 9, 2013.²⁶

²³ Record, p. 260.

²⁴ Record, p. 262.

²⁵ Record, p. 267.

²⁶ Record, p. 268.

Fox stated that there was no evidence to support Patenaude's charge that campaign strategy meetings were conducted in the GEO office. Fox wrote that the notes described by Patenaude as having been found in the GEO copier did not support the charge. Her letter states:

"...In any event, the investigation did not corroborate that the notes were copied, printed or faxed using union equipment. Further, although you believe that a campaign strategy meeting supporting your opponent took place in the GEO office because it is alleged that the notes concerning such a meeting were found on the office copier machine, there is no evidence that a campaign meeting supporting Silverlight took place in the GEO office. The LMRDA was not violated."²⁷

Fox reported that the training referred to in the GEO minutes only concerned union organizing.²⁸ Fox determined that there was no abuse of mailing lists by either candidate. She reported that Frank Jackson of the GEO compiled a contact list by using his own contacts, the University's People Finder Software, and by canvassing the UMass dormitories. She further reported that the University allows everyone equal access to its email system. Her report states:

"...As alleged, the investigation disclosed that supporters of your opponent used the UMass email system to disseminate a campaign email to GEO members. However, UMass has no prohibition on use of its email system for campaigning. During the investigation, the Vice Chancellor for Human Resources advised that the UMass-UAW-GEO contract allows for use of the UMass email system for union purposes. He further stated that UMass allows for use of its email system to support a candidate and that there is no limit to such email use. Further, the GEO office manager stated during the election that the election committee allowed all candidates to send emails to the entire membership, including the RAs and the GEO members, using the Local 2322 membership list and the local's email system. The investigation showed that the election committee conducted an email blast to the entire Local 2322 membership on your behalf. There was no violation of the LMRDA."²⁹

Fox wrote that even if Patenaude's complaints about the Graduate Student Senate were correct, the activities described could not have affected the outcome of the election for president. She wrote:

"You alleged that an April 12, 2013 meeting that was sponsored by the Graduate Student Senate was used to support Silverlight's campaign.

²⁷ Record, p. 268.

²⁸ Record, p. 268.

²⁹ Record, pp. 269-270.

The investigation disclosed Silverlight originally was on the agenda to speak at that meeting but she did not attend the meeting. The election and Silverlight's candidacy were mentioned during the meeting for about five minutes, but there was no promotion of her candidacy, and there was no solicitation of votes for her. In any event, the smallest vote margin was 80 votes. The investigation showed that only 25 members attended the meeting. These twenty-five votes would not have affected the outcome of the election."³⁰

Fox acknowledged Patenaude's claim that GEO employees were promised GEO positions in exchange for their support, but she stated that such matters are not regulated by the LMRDA.³¹

Patenaude and McGrath renewed their appeals to the IEB on March 13, 2014. President King's staff determined that a hearing was unnecessary on the appeal and issued a report to the IEB based on information provided by the appellants, the local union, and the report and findings of the DOL. Staff wrote:

"We have determined that the DOL investigation reviewed and addressed all claims raised in appellant's internal union appeal and we hereby concur with and adopt their decision."³²

Based on this determination, President King's staff denied Patenaude's and McGrath's appeal. The IEB adopted staff's report as its decision in a letter dated April 7, 2014. Patenaude and McGrath have now appealed the IEB's decision to the Public Review Board (PRB).

ARGUMENT

A. Ronald Patenaude and John McGrath:

We are asking for an unbiased review and investigation of our election protest. Jocelyn Silverlight and members of her slate of candidates violated election rules. In addition, Region 9A Director Julie Kushner and members of her staff interfered in the electoral process.

We filed our protest to the May 16, 2013 election on Monday, May 20, 2013, and attended the local membership meeting on Thursday, May 23, 2013. At that meeting, the supporters of our opponents submitted a motion to suspend membership meetings for the rest of the summer because members of the GEO, the largest shop in our amalgamated local, would not be in the area for the summer. No date was set for a

³⁰ Record, p. 270.

³¹ Record, p. 271.

³² Record, p. 290.

September membership meeting. As it seemed that the newly seated local union officers were going to attempt to stall our protest and the appeal process, we also notified the UAW International Union of our concerns.

We finally received a response from the International Union on August 1, 2013. The long period between the original filing and the vague response we finally received indicated a lack of interest on the part of the UAW International Union in conducting an investigation of our complaints. The letter we received from Administrative Assistant Stokes-Wilson did not indicate any timeline. It was not only vague; it was just nothing. The lack of content further strengthened our belief that we would not receive a fair, timely, and unbiased hearing at the hands of the UAW.

Given the lack of urgency or even concern being displayed by the UAW, we filed a complaint with the DOL. In response to our complaint, Patricia Fox of the Division of Enforcement (DOE) summarily dismissed some of our issues because they had not been presented to the Local Union as part of our protest. Had Ms. Fox done a thorough review, she would have seen the issues she summarily dismissed had been sent to the UAW 2322 local elections committee in a supplemental "annotated" election challenge when we became aware of these other issues. We find it hard to believe that it is the intent of the LMRDA to exclude evidence of wrongdoing that only became available after the initial protest was filed.

We were very disturbed with Administrative Assistant Eunice Stokes-Wilson's assertion that our filing with the DOL violated the UAW Constitution because we had not yet exhausted our internal union appeals. It was more disturbing that this information was first sent to Regional Director Kushner who then gave it to Silverlight for uses that were clearly political. We find it hard to believe that it is the intention of the UAW Constitution to deny a member's right to due process. That would have been the effect of waiting for the internal appeals process to complete before filing our complaint with the DOL. After researching the process and requirements, we felt we were at risk of losing our right to file under the LMRDA regulations. Those regulations provide that a complaint may be filed if there is no response to the internal process after three months.

During a local executive board meeting on September 5, 2013, I learned that the International Union had advised Silverlight that a hearing would be conducted. I heard Silverlight state that she was gathering materials to send to an unnamed person in the International President's office. I take issue with the fact that the International Union failed to contact us about this investigation. I object to the International contacting one of the individuals suspected of wrongdoing and allowing her to gather the evidence.

When our appeal was finally presented to the IEB, the president's staff was negligent in investigating our protest. The report to the IEB is based entirely on the statement of reasons issued by the DOL. We believe that statement was inaccurate and incomplete. We believe the US Department of Labor failed to conduct an adequate or thorough investigation of our complaint. The decision of the DOL relies on testimony given by Silverlight and her supporters.

Foremost among the deficiencies of the DOL investigation was the investigator's failure to interview several key witnesses who would have provided insight into the actions and motivations of Silverlight and her supporters. My witnesses would have explained how Silverlight's supporters willfully and intentionally violated election rules to such an extent that it influenced the outcome of the election. Ryan Quinn, who is the local union's IT person, could have provided information about Silverlight's attempts to compile a GEO membership list. Quinn felt that Silverlight's supporter Frank Jackson had been given access to a RA membership list because Jackson knew the exact number of RA members. Furthermore the list Jackson compiled had almost the exact number of GEO members. This indicates that he used some kind of software to extract the names of GEO members from the general UMass People Finder list because the list does not differentiate between GEO members and graduate students.

The DOL report states that no one who attended the training paid for by the GEO corroborated my charge that campaigning took place during the training. Executive board member Eric Hopkins and member Bliss Requa-Trautz had information about the training that was provided to GEO members. The training was put on with local union funds approved by members of the GEO Steering Committee, all of whom were in one way or another connected to Silverlight's slate. The training was not open to or advertised to anyone other than Silverlight's supporters. I did not say that campaigning took place during the training. I said the training was put on specifically to benefit Silverlight's campaign and to train her supporters. It does not matter what kind of campaign you are running; it is all organizing. The basics are the same whether it is a campaign to organize new members or for an election.

We disagree that Silverlight's announcement of her candidacy at a GEO meeting should be disregarded because I also announced my candidacy at a January 9, 2013 membership meeting. This is a great example of the lack of attention to detail in the DOL's statement of reasons. The meeting on January 9, 2013, was not a membership meeting. It was a meeting of the UAW Local 2322 Executive Board. There were only nine people in attendance. Additionally, I did not announce my candidacy at that meeting, I merely mentioned that the triennial elections were coming up and we would need to put together an election committee. That statement in front of two non-GEO members hardly seems equivalent to a GEO membership meeting which lasted several hours and which painted my administration as being the reason for all of the problems between the Local and the GEO. Again, this was not only Silverlight announcing her candidacy, but her supporters making multiple accusations against the seated president without any chance for rebuttal.

There is no procedure for appealing an inadequate investigation by the DOL so we are appealing to the PRB in the hope that it will review the evidence and reach a different and more distinctly articulated conclusion. We believe that election rules were violated severely enough to have affected the outcome of the election. We are asking to have the election overturned and new election conducted under the observation of an independent party.

If another election is ordered, we also request that a letter be sent to the local membership indicating that we did not violate the UAW Constitution by exercising our right to present our case to the DOL. This would be to redress the unfounded and inaccurate information written by Administrative Assistant Stokes-Wilson and circulated by Director Kushner, President Silverlight, and others.

B. International Union, UAW:

Appellants assert that the International Union deliberately stalled the processing of their appeal. The record does not support that claim. Patenaude first sent a letter regarding the election to the International President's office on May 30, 2013. He followed up on July 1, 2013, with an appeal from the local executive board's decision not to rerun the election. The International Union commenced its investigation of the appeal shortly thereafter. On August 1, 2013, the International President's office acknowledged appellants' appeal and requested information about the matter from the local union.

Despite this timely response, the appellants chose to disregard the requirement stated in Article 33, §5 of the Constitution to exhaust their internal union appeals before going to a governmental agency. They filed a complaint with the U. S. Department of Labor on August 23, 2013. Once the appellants elected to take this course of action, the President's office placed their appeal in abeyance pending the outcome of the DOL's investigation.

Appellants' complaint to the DOL contained the same allegations found in their appeal to Local Union 2322. The DOL systematically and in detail addressed each of appellants' concerns and found that they all lacked merit. When appellants presented their appeal to the IEB, the president's staff reviewed the DOL's report and determined that it adequately addressed all the claims that had been raised. Based on that conclusion and the record in this matter, the IEB found that no further action was warranted.

In their appeal to the PRB, appellants assert that the DOL failed to conduct an adequate or thorough investigation. Appellants are now taking the position that the IEB should not have accepted the DOL's findings or relied on them in resolving this appeal. Appellants chose to pursue their claims before the DOL rather pursuing an Article 33 appeal to IEB. The DOL collected evidence and spoke to witnesses from both camps in the contested election. In addition, the DOL spoke to officials from the University of Massachusetts. After the local union responded to the issues raised in the DOL's letter of September 20, 2013, the DOL assessed the evidence and testimony presented by all the parties. It concluded that the evidence submitted by the local union was more credible than appellants' claims.

Despite a lengthy and scattergun attack on the DOL's findings, appellants have not presented any basis for rejecting the DOL's conclusions. Patenaude speculates

that Silverlight and her supporters could have colluded and coordinated their testimony to support their position, but that is true for both sides of the controversy. Appellants have not provided any argument that would compel the PRB to order the International Union to conduct a second investigation and analysis of the same facts and arguments they presented to the DOL. The PRB should uphold the decision of the IEB.

C. Rebuttal by Ronald Patenaude on behalf of appellants:

I believe that the record supports my charge that I was targeted for removal as President of Local Union 2322 by Region 9A Director Kushner, with the approval and consent of the IEB and the International President's staff, in response to my vocal and public opposition to International Union policies that I felt were not in the best interests of the UAW Local 2322 membership. In addition to evidence of Kushner's covert contact with Silverlight and her supporters, the Silverlight administration has taken numerous positions supporting regional policies without regard to the best interests, opinions, or decisions of the Local 2322 membership.

I have previously explained the deficiencies in the statement of reasons issued by Patricia Fox for the DOL. We disagree with the International Union's claim that this report should take the place of a complete investigation by the UAW into our complaints. The failure of the International Union to perform any independent investigation or even reasonable review of the facts did not fulfill its intent to provide a rigorous defense of democratic procedures and justice for our members. Our local union membership continues to suffer under an administration that achieved their positions through false claims and the use of prohibited resources. This administration is currently being propped up by Region 9A with the cooperation of the International Union.

In response to my appeal, President Williams asserts that the DOL found the local union's evidence more credible than my complaints. President Williams completely overlooks the fact that the evidence presented by the local was fabricated and embellished, probably to a great degree. Local Union 2322 staff members could have described a history of inappropriate conduct by Silverlight and members of her slate if the International Union had conducted a proper investigation including interviews of these staff members. Silverlight's only response to complaints about her behavior is to say that she is the one entitled to make decisions regarding the administration of the local union.

It now appears that the only remedy for the ongoing violations of our local union bylaws and the UAW Constitution would be another set of charges that would have to be appealed to the PRB. We would like to believe that justice is possible, but given our experiences and treatment at the hands of the UAW, we are less than confident. We hope that the PRB is, as intended, an independent vehicle that can provide an unbiased and fair response.

DISCUSSION

The local union's review of appellants' election protests complied with the procedures established in Article 38, §11, of the UAW Constitution. The purpose of these rules is to protect the membership's right to select their union officers in democratically conducted elections. A protest asking to vacate the recorded results of a local union election is not a confidential matter; it is a matter of concern to the entire local union membership. A challenge to the membership's expressed preference for a particular candidate must have a substantial basis. Upon receipt of appellants' protest, therefore, the election committee appropriately investigated the allegations that provided the basis for appellants' challenge by interviewing the people connected to Silverlight's campaign.

It is not unusual for local unions to suspend membership or joint council meetings during the summer months. Article 37, §4(c) of the UAW Constitution specifically provides for such suspensions. When summer meetings have been suspended following an election, Article 38, §11 of the Constitution refers any election appeals to the local union executive board and directs the executive board to rule on the protest within thirty days.³³ These rules are designed to resolve election protests as expeditiously as possible so that the newly elected officers can assume their duties without the cloud of a possible protest in the future. Under this system, it is not uncommon for newly elected executive board members to review protests challenging the election that put them in office. There is no requirement that executive board members recuse themselves in these circumstances. If the protesters believe that the executive board's conclusions are biased or unsupported by the record, they have recourse to the union's internal appellate process.³⁴ In this case, the minutes of the local executive board meeting support a conclusion that the Local 2322 executive board members reviewed appellants' protests conscientiously and rejected them based on their conclusion that no violations had been established.

³³ Article 38, §11 of the UAW Constitution provides, in pertinent part, as follows:

“...In the event that membership meeting(s) have been suspended by affirmative membership action(s) pursuant to Article 37, Section 4(c), the protest must be submitted to the Local Union Recording Secretary within seven (7) days of the closing of the polls or the next Local Union Executive Board meeting (not to exceed thirty (30) days from the date of the election), whichever is later. The protest will be directed to the Local Executive Board, which shall rule on the protest within thirty (30) days after receipt.”

³⁴ The *UAW Guide to Local Union Election Committees* emphasizes the importance of the appellate process in protecting the decision of the majority. It states:

“In some cases a minority of the membership of a local union may be in a position to overrule the will of the majority in passing judgment upon the report of the election committee. A situation may arise when a group of officers is elected by the votes of a thousand or more yet when the election committee reports to the membership, a group of 50 or 75 might constitute the majority of that membership meeting and reject the election committee's report on some very minor, technical, or insubstantial grounds, thus frustrating the will of the majority. Accordingly, certain safeguards must be taken to protect the democratic decision of the majority against minority action.” (p. 74)

There is a well-established presumption regarding the union's internal review of election protests that all elections conducted by a local union are valid. In order to rebut the presumption, it must be shown by clear and convincing evidence that some fraud or impropriety occurred to such a degree as to have affected the outcome of the election.³⁵ Appellants' arguments in support of their appeal to this Board would turn this presumption around. They insist that the successful candidates should be called upon to prove that no impropriety occurred in order to validate their elections. They suggest that the accuracy of their opponents' mailing list required further scrutiny because they believe that such a list must have been obtained improperly. They assert that the presence of some notes in a copier in the GEO office was evidence of the improper use of union resources to support Silverlight's campaign for president. They maintain that it was improper for the local union to pay for training in internal union organizing, because those skills might be used to support Silverlight's campaign. Appellants have produced no evidence, however, that the local union or the GEO expended any resources on Silverlight's campaign. The fact that members of the GEO supported Silverlight does not violate any rule. Furthermore, there is no evidence in this record that Regional Director Kushner had any involvement in Silverlight's campaign for president. The fact that she is reported to have stated, after Silverlight was elected, that she is going to be great, is not evidence of such involvement.

Most of the circumstances appellants complain about do not describe violations of the Constitution or the *UAW Guide to Local Union Election Committees*. The election rules established by the UAW are designed to enhance democratic practices and encourage members to become involved in election campaigns. Patenaude complains about members' support of Silverlight as if that in itself were a violation of election procedures. He suggests that references to her candidacy in various contexts and discussion of the merits of electing a member of the GEO to be an officer of the local union is evidence of wrongdoing that requires further investigation. In fact, these are the very kind of issues that local union members have the right to address at the ballot box during local union elections. Patenaude's complaints in this regard are a little unusual in that he was the incumbent president objecting to local union support for his challenger, but nevertheless we have recognized the right of all members, incumbents and challengers alike, to campaign vigorously during local union elections.³⁶

In response to Patenaude and McGrath's complaint, the DOL summarized all possible violations of the LMRDA identified in their election protest. It is clear from this record that the DOL conducted a thorough investigation of these alleged violations. That investigation also covered any claims that would amount to a violation of the

³⁵ *Carter v. Local Union 7, UAW*, PRB Case No. 308, 2 PRB 70 (1974); *Martin and Pierce v. Local Union 624, UAW*, PRB Case No. 1074, 8 PRB 411 (1994); *Haddad and Burcicki v. Local Union 157, UAW*, PRB Case No. 1141, 9 PRB 307, (1997); *Amie et al. v. Local Union 276, UAW*, PRB Case No. 1672 (2012).

³⁶ *Moye v. Local Union 110, UAW*, PRB Case No. 1205, 10 PRB 32 (1997), at 35.

election rules established by the UAW Constitution and the *UAW Guide to Local Union Election Committees*. It was not necessary for the IEB to conduct a separate investigation of the identical issues. Appellants have not established the existence of any violations of the UAW's rules governing elections that could have affected the outcome of the races for president or sergeant-at-arms of Local Union 2322.

The decision of the IEB is affirmed.