

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

APPEAL OF:

ROBBIE PIPPENGER AND PATTY FRIGO,

Appellants

-vs-

CASE NO. 1764

UAW LOCAL UNION 1949 EXECUTIVE BOARD
(Frankfort, Indiana)
REGION 2B
(THE UNITED AUTOMOBILE, AEROSPACE
AND AGRICULTURAL IMPLEMENT
WORKERS OF AMERICA),

Appellee.

DECISION

(Issued August 25, 2017)

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

We consider whether charges filed by Robbie Pippenger and Patty Frigo against the officers and committeepersons of Local Union 1949 were correctly disqualified pursuant to the provisions of Article 31, §3, of the International Constitution.

FACTS

Robbie Pippenger and Patty Frigo are members of UAW Local Union 1949 in Frankfort, Indiana. On November 9, Robbie Pippenger filed a series of charges against members of the local union administration alleging various violations of the UAW Constitution. Pippenger charged that members of the local executive board violated Article 37, §4 and §5 of the Constitution by not holding general membership meetings at least once a month over a four-year period.¹ Pippenger charged that certain members of the local election committee and the local bargaining committee violated Article 37, §4 and §5 of the Constitution by failing to attend 2 out of 3 union membership meetings over a four-year period.² Pippenger charged that certain committeepersons and officers

¹ Record, p. 7.

² Record, p. 8.

violated Article 9 of the UAW Constitution by failing to vote in elections for civil officers in the area where they lived in 2007 and 2016.³ Pippenger charged that the local financial secretary Mary Ann Shaw violated Article 40, §4 and §7 of the Constitution by failing to give members an official receipt for initiation fees and failing to provide each local union member with a copy of the UAW Constitution and the local union bylaws. Patty Frigo signed this final charge as a witness.⁴

On November 16, 2016, Pippenger filed a charge against the local recording secretary Jayne Kinslow in connection with her handling of a motion he attempted to introduce during a membership meeting on October 9, 2016. Pippenger asserted that Recording Secretary Kinslow violated Article 40, §3 of the UAW Constitution by failing to transcribe a correct record of the membership meeting during which he attempted to present his motion. The charge states:

“On 10/09/2016, I attempted to place a motion on the floor of the union meeting. I was often interrupted and denied my right of free speech that is stated in the 1st Amendment of the U. S. Constitution. You joined with Mike Salinas and others who did not adhere to Roberts Rules of Order as they interrupted me. As you did this, you entirely stopped taking notes! This was your job as recording secretary. I was forced to send you my motion in writing by certified mail. ...”⁵

Pippenger went on to complain that Kinslow failed to mention his certified mail during a subsequent membership meeting on November 13, 2016. His charge states:

“On 11/13/2016, you made no mention of the certified mail that I sent to you regarding the motion that I attempted to place on the floor of the 10/09/2016 union meeting or the things that I discussed. The sgt-at-arms did little or nothing to stop the disorderly clamor that prevented Patty Frigo and I from answering the questions that we were asked in that poor excuse for what was supposed to be a local UAW meeting. Patty Frigo and I were both denied our 1st Amendment rights as the crowd yelled at us.”⁶

Patty Frigo signed Pippenger’s charge as a witness.⁷

³ Record, p. 9.

⁴ Record, p. 15.

⁵ Record, p. 16.

⁶ Record, p. 16.

⁷ Record, p. 17.

On November 28, 2016, Patty Frigo filed a charge against the current and past members of the Local 1949 Executive Board for failing to establish the standing committees described in Article 44 of the UAW Constitution. Frigo's charge states:

"The sudden invitation to members of UAW Local 1949 to serve on all of the standing committees mentioned in Art. 44 is like a derelict farmer trying [to] cover up his rotten wooden fence with a coat of whitewash paint. This blatant attempt at a cover-up cannot erase the wrong done to members for so long. I had asked about educating our new members at 2 or more union meetings. I was told 'we give them a packet' by Cathy Caldwell, the wife of ex-president Mark Caldwell, who was presiding over the meeting when I asked about education. I had to go to Solidarity House to get the truth.

What were the Caldwells afraid of? What were they trying to hide from the membership? The members of the UAW Local 1949 Executive Board all violated Art. 44 of the UAW Constitution."⁸

Robbie Pippenger signed Frigo's charge as a witness.⁹

On November 30, 2016, Patty Frigo filed a charge against Tim Newman and David Timmons for violating Article 9 of the UAW Constitution by failing to vote in local civil elections. The charge states:

"On 11/29/2016, I received information from the Clerk of Clinton County Indiana. I saw that Tim Newman was an inactive voter because he had not voted in any election since 2004! It also showed that David Timmons had not voted in 2014, the 2012 primary, 2010, and the 2006 primary. They have disregarded the political qualifications of UAW officials and are not fit to hold any office in the UAW because of Art. 9. The evidence for these violations is attached to this charge."¹⁰

Robbie Pippenger signed Frigo's charge as a witness.¹¹ Robbie Pippenger and Patty Frigo filed a separate charge against Local 1949 President Mike Salinas asserting that he violated Article 9 of the UAW Constitution by failing to vote in local civil elections.¹²

⁸ Record, p. 18.

⁹ Record, p. 19.

¹⁰ Record, p. 20.

¹¹ Record, p. 20.

¹² Record, p. 33.

The Local 1949 Executive Board considered the charges filed by Robbie Pippenger and Patty Frigo at a meeting on December 11, 2016. The Executive Board found the charges improper. The minutes of the December 11, 2016 meeting report:

“President Mike Salinas went over charges that Robbie Pippenger and Patty Frigo brought against the Executive Board and other members of Local 1949. The Executive Board discussed and answered the charges.

The Executive Board found charges to be improper and have no merit.”¹³

The local recording secretary made a note on the executive board meeting minutes that all of the charges were also read to the membership at a meeting on December 11, 2016, and that the membership voted to reject them.¹⁴ The membership meeting minutes reflect the following discussion of Pippenger’s and Frigo’s charges:

“Roger Fidler made a motion that all charges against the executive board and bargaining committee be dismissed and that Robbie Pippenger and Patty Frigo be kept from attending union functions because of conduct unbecoming of a Local 1949 union member. Tracy Flack second. Motion Carried.

Darleen Bartley made a comment about why does Robbie feel that he can do what he’s doing but when other members say anything that’s not in his favor, then charges are brought against them.

Barb Lowery wanted to thank Robbie Pippenger and Patty Frigo for showing that Local 1949 has shown that the union can stick together and be united. Then Barb Lowery resigned from her current position as sgt-at-arms and told Robbie Pippenger and Patty Frigo that they were F%\$#@&(assholes and what they are trying to do to the Local 1949 Union by tearing members apart. Dividing the membership by lies. The Union needs to be united, not torn apart. The company does not give us anything, unions are the reason we have what we have now.”¹⁵

After the meeting, Local 1949 issued charges against Pippenger and Frigo for engaging in conduct detrimental to the local union.¹⁶

¹³ Record, p. 24.

¹⁴ Record, p. 24.

¹⁵ Record, pp. 27-28.

¹⁶ Record, pp. 39-40 and 41-42.

On January 5, 2017, Robbie Pippenger filed a charge against Mike Salinas and the entire Local 1949 Executive Board for failing to process his charges in the manner described in Article 31, §3 of the UAW Constitution. Pippenger's charge states:

"Fidler was not the accused or the accuser in the charges that he moved to dismiss. There was no "determination" by the Executive Board and the accuser was not notified in writing of the determination."¹⁷

The local executive board notified Pippenger of the rejection of his charges by certified mail delivered on January 17, 2017.¹⁸ The local executive board notified Patty Frigo of the rejection of her charges by certified mail delivered on January 17, 2017.¹⁹ The local executive board's notices to Pippenger and Frigo state:

"The executive board read all charges and unanimously agreed there is no merit on these charges. Charges were read at the membership meeting held on December 11, 2016, and a motion to drop all charges was made and the motion carried."²⁰

Robbie Pippenger and Patty Frigo appealed the rejection of their charges to the International Executive Board (IEB) on January 10, 2017.²¹ In support of his appeal, Pippenger reported that President Salinas informed him of the local executive board's ruling on his charges on January 8, 2017. He asserted that the local executive board's processing of his charges was not in accordance with Article 31, §3 of the UAW Constitution. Pippenger explained the substance of each of his charges and concluded:

"For years, officials at UAW 1949 have ignored the UAW Constitution by acting as if it did not exist. Though they passed out local contracts between Federal Mogul and UAW Local 1949, most members had no knowledge of the Constitution or where to find it. Patty Frigo and I finally got the current copy when we visited Richard Isaacson at the UAW Solidarity House. UAW founders established the Constitution to keep local unions in line for proper service to the members."²²

Patty Frigo presented the same argument in support of her two charges.²³

¹⁷ Record, p. 29.

¹⁸ Record, pp. 43-44.

¹⁹ Record, pp. 45-46.

²⁰ Record, pp. 43 and 45.

²¹ Record, pp. 30-36 and 37-38.

²² Record, p. 36.

²³ Record, p. 38.

In response to an inquiry from the International Union regarding the appeal filed by Robbie Pippenger and Patty Frigo, the Local 1949 Executive Board submitted a statement refuting the factual allegations made in the charges filed by Pippenger and Frigo. The local executive board gave the following explanation for having presented Pippenger's and Frigo's charges to the membership at the meeting on December 11, 2016:

"In accordance with the UAW Constitution, the executive board found that said charges had no merit and went above and beyond the call of duty to bring in front of membership said charges. Roger Fidler made a motion to dismiss all charges against the executive board and other members and Tracy Flack second, and motion was carried."²⁴

President Williams's staff determined that a hearing was unnecessary on the appeal of Pippenger and Frigo. Acting on behalf of the president, staff prepared a report to the IEB based on the information provided by appellants and Local Union 1949. Staff pointed out that it is not the function of a local executive board reviewing charges submitted pursuant to Article 31 of the Constitution to determine whether the charges have merit. The local executive board's only function is to review the charges and consider them improper if they fail to meet the criteria set forth in Article 31, §3(a) through (e) of the Constitution.²⁵

Staff proceeded to apply the tests of Article 31, §3 to Pippenger's and Frigo's charges. Staff found the allegation that various officers failed to vote in civil elections was untimely within the meaning of Article 31, §3(b) of the Constitution because the elections in question occurred more than sixty days prior to the day on which the charges were filed. For the same reason, staff found the complaint about the local union's failure to conduct monthly meetings over a four-year period to be untimely. Staff noted that some of those charged with failing to vote in civil elections are not local union officers so that Article 9 would not apply to them.²⁶

Staff observed that appellants' charges were mainly concerned with the local union officers' performance of their Constitutional responsibilities and are therefore subject to disqualification under Article 31, §3(d) of the Constitution. Article 31, §3(d) applies to questions that should be decided by the membership at a membership meeting and not by trial procedure. Staff reported that the local union bylaws describe the procedure for dealing with attendance at local union meetings. The charge that the financial secretary failed to give people receipts for initiation fees does not indicate when the alleged conduct took place, but this allegation was subject to disqualification under Article 31, §3(d) as well.²⁷

²⁴ Record, p. 50.

²⁵ Record, p. 121.

²⁶ Record, p. 121.

²⁷ Record, p. 122.

In response to appellants' complaints about the local union officers' failure to perform various functions, staff responded that the PRB has repeatedly ruled that acts or omissions of a local union officer in the performance of his or her responsibilities are not proper subjects for Article 31 charges. Staff remarked that appellants' charges reflect intense animosity between some of the members of Local Union 1949. Staff observed that Local 1949 had attempted to respond to Pippenger's and Frigo's charges by filing countercharges. Staff pointed out that the trial procedure described in Article 31 is not designed to address these kinds of disagreements among members. Their report concludes:

"The Public Review Board has established numerous times that Article 31 was not designed to resolve petty differences between members. As long as there are groups of people that are together for any substantial amount of time, differences will arise. The trial procedures were established to protect the union and its members from those who truly intend to render harm or fail to do their constitutional duties. It is a serious procedure with serious consequences and should be applied accordingly. We strongly urge the parties to resolve their differences for this is not beneficial to anyone, especially the members we represent."²⁸

The IEB adopted staff's report as its decision. President Williams provided appellants with a copy of the IEB's decision on March 30, 2017. Robbie Pippenger and Patty Frigo have now appealed the IEB's decision to the Public Review Board (PRB).

ARGUMENT

A. Robbie Pippenger on behalf of appellants:

My charge alleging violations of Article 9 of the UAW Constitution was not untimely within the meaning of Article 31, §3(b). The time limit specified by that article begins to run when the complainant first becomes aware of the alleged offense. I discovered that Trustee Doug Shaw did not vote in the 2016 election on November 9, 2016. I discovered that Mike Salinas and David Timmons failed to vote in several elections on November 30, 2016. My charge was filed within 60 days of these discoveries.

The anonymous charges filed by members of Local 1949 acknowledged that monthly membership meetings are often cancelled during the summer months due to high vacation rates. Although my charge concerning the union's failure to conduct monthly membership meetings goes back four years, it became apparent on September 26, 2016, that the local was not going to have a membership meeting during the month

²⁸ Record, p. 123.

of September. Therefore, my charge dated November 9, 2016, was well within the 60-day time limit.

The IEB held that my charges alleging violations of the Constitution raised questions that should be decided by the local union membership. The membership cannot vote to defy the Constitution. The IEB is shirking its duty under Article 12 of the Constitution to repeal bylaws which do not conform to the Constitution and to punish all subordinate bodies for violations of the Constitution. Are members of the IEB swayed by the fact that the International Representative Ron Dubree is the nephew of ex-president Mark Caldwell who is facing a criminal charge for the text message he sent to me, Robbie Pippenger? Ron Dubree has written about the cancellation of monthly membership meetings with seeming approval of this clearly unconstitutional practice.

During the December 9, 2016 membership meeting, Financial Secretary Mary Ann Shaw admitted not giving receipts to members like Dalton Pippenger. The anonymous charge filed by Local 1949 also provided evidence of this violation in their pitiful defense of Shaw. They claimed the company deducts the initiation fees and the deduction appears on pay stubs. That practice cannot void the Constitution's mandate for an official receipt. During the meeting on December 9, Shawn Nay asked Mary Ann Shaw for a copy of the local union bylaws and that request was denied!

The IEB reported that the PRB has repeatedly ruled that the acts or omissions of a local union officer committed in the performance of his or her responsibilities may not be the subject of Article 31 charges. Is this because the PRB is being paid by the UAW? Is this because the UAW International Union and the local unions do not want to spend any of the money they receive as dues from the membership to defend the Constitution that protects those members? Why have a Constitution if you are not going to follow it and enforce it? We ask the PRB members to do their job and overrule the IEB.

B. International Union, UAW:

Pippenger's charge that local union officers violated Article 9 of the Constitution is based on elections held long prior to November 2016. The IEB properly found those charges to be untimely under Article 31, §3(b). Pippenger attempts to resurrect these charges by asserting that the sixty-day period began to run when he first became aware of the offense. The time limit defined in Article 31, §2 begins to run from the time the complainant first became aware, or reasonably should have been aware of the alleged offense. Voting records are part of public records and the alleged offenses date several years back. They could have been discovered by appellant long before November 9, 2016. Thus, the IEB correctly found the charges to be untimely.

Moreover, the PRB has previously stated that charges presented under Article 31 are not intended for remedial purposes. Complaints about the administration of the union should be presented as appeals in accordance with the procedures described in Article 33 of the Constitution. Article 31 is reserved for offenses involving malice or

improper motivation. *Pearsall v. UAW Local Union 12 Executive Board*, PRB Case No. 1475, 12 PRB 477 (2004). Pippenger has not alleged that malice or improper motivation was involved in the officers' alleged failure to vote in past elections. The IEB recognized the hard feelings that exist between various groups of members at this local union, but followed the long-standing rule that Article 31 trial procedures were established to protect the union and its members from those narrow instances where parties demonstrate a malicious intent in their failure to follow Constitutional duties. As the Board pointed out in the *Pearsall* decision, Article 31 does not offer an alternate route of appeal for members dissatisfied with action or lack of action on the part of local union officials.

Similarly, appellants' complaint about the local union's decision to cancel membership meetings is a question that should have been presented to the membership rather than as a charge. In any event, the PRB has previously ruled on this issue. In *Abronowitz and Bodiford v. UAW Local Union 2256 Executive Board*, PRB Case No. 1599, 13 PRB 889, at 895, the PRB members observed that it is very common for local unions to suspend meetings during the summer months and clearly authorized by Article 37, §4(c) of the Constitution.

The text of Article 40, §4 of the Constitution also makes clear that the local union's method of relying on the company's check stubs as a receipt for initiation fees is acceptable.

Pippenger complains that the financial secretary failed to provide a copy of the local union bylaws to a member on December 9, 2016, and that the recording secretary failed to provide minutes of a membership meeting. Even if these assertions are accurate, Article 31 is an inappropriate means to address the issue. The PRB has ruled consistently on many occasions that acts or omissions of an officer in the performance of his or her official duties may not be the subject of Article 31 charges. *Parker in the matter of David O. Zappa v. UAW Local Union 1248 Executive Board*, PRB Case No. 1473, 12 PRB 461 (2004) and *Franks and Smith v. UAW Local Union 7777 Executive Board*, PRB Case No. 1518, 13 PRB 134 (2005).

The IEB correctly denied the appeal of Robbie Pippenger and Patty Frigo, but also wisely urged the parties to resolve their differences for the benefit of the membership of Local 1949. The International Union has made efforts to assist the local union and its members to reach this goal and continues to encourage such resolution.

C. Rebuttal by Robbie Pippenger on behalf of appellants:

The International Union's response to our appeal does not address the separate appeal that was submitted by Patty Frigo via certified mail.

The International Union argues that we could have discovered the failure of the local union's officers to vote in civil elections long before November 9, 2016, when the charge was filed asserting this violation. This argument ignores the fact that we did not

even have a copy of the local union bylaws or the UAW Constitution prior to October 31, 2016. On that date, I went in person to Solidarity House and spoke with Rick Isaacson. He directed me to use Article 31 and Article 33 to address my concerns. I have established that Mike Salinas, David Timmons, and Doug Shaw failed to vote in elections for civil officers as required by Article 9 of the UAW Constitution. All three of them are local union officers.

The International Union is confusing the word "postpone" with the word "cancelled." Article 37, §4(a) requires a local union to conduct a regular membership meeting at least once a month. Article 37, §4(c) permits the local union to postpone the meeting, but that does not mean that the meeting may be cancelled altogether. If a meeting does not take place within the month then that meeting has been cancelled, because the meeting for that month in that year can never take place again. I regret to inform the IEB and the PRB that the PRB's ruling in *Abronowitz and Bodiford v. UAW Local Union 2256 Executive Board*, PRB Case No. 1599, is incorrect. If the International Union wanted to authorize local unions to cancel membership meetings during the summer months, they had the opportunity to change the word postpone to cancel at the last Constitutional Convention and they failed to do so. Any good high school student would understand the difference between postpone and cancel, but the IEB does not seem to. What did the IEB do to the PRB to make them go along with the foolishness of failing to understand the difference?

In May 2017, there were less than fifteen people in attendance at the membership meeting. No members of the UAW bargaining committee were present. Doug Shaw and the other officers of Local Union 1949 failed to appear. Patty Frigo and I have told various UAW International Representatives about the lack of attendance by union officers at our membership meetings. We have complained about the cancellation of membership meetings in the summer when members need answers to problems. We have complained about the union representatives' ignorance of the ways to handle conflicts with management. Many new hires feel the union is not worth the dues they pay when union representatives sit in their offices and say nothing to defend union members when management writes them up.

A major reason for the decline in union membership is the unconstitutional advice given to Local Union 1949 by International Representative Ron Dubree regarding the cancellation of monthly membership meetings. Dubree is the nephew of the former president Mark Caldwell, who is facing a trial on August 14, 2017, for his threat against me. The IEB coddles violators of the Constitution instead of enforcing constitutional requirements. Region 2B Director Ken Lortz violated Article 27, §5 of the Constitution by shirking his duty to see that Local Union 1949 established an Education Committee. This violation continued year after year! Recent agreements have given up more and more to the company, rather than gaining. Did my exposure of these facts have anything to do with the sudden resignation of Ken Lortz after he tried and failed to get me to drop all of my charges on March 30, 2017?

The IEB claims that the membership is responsible for addressing attendance violations at union meetings in accordance with the local union bylaws. Where are the current bylaws? Where is the evidence that the membership voted on the absence of the bargaining committee and local executive board members at membership meetings? This is why I have requested all the records of UAW Local 1949 for the past two years and all written records of the International Executive Board and Region 2B regarding this case.

The International Union dares to write about improper motivation. The evidence of the number of meetings and the attendance at those meetings will show the improper motivation on the part of the bargaining committee members and local union officers who do not attend the meetings. Can it be that the real reason the officers of Local 1949 limit membership meetings is to limit their contact with local union members? The International Union wants to reject my charges because they claim there was no malice asserted. Then they go on to say the charges are motivated by animosity and hard feelings. The IEB cannot ride the horse both ways! The IEB needs to take the time to hear the truth about how the membership was allowed to violate Robert's Rules of Order for over an hour at the November 13, 2016 membership meeting when we tried to present our motion. We were denied our right to free speech and to participate in the affairs of the union. The IEB now seeks to bend what they cannot change to coddle a local that has been allowed to do what they want instead of what they are supposed to do in accordance with the UAW Constitution. The UAW Constitution was written to protect the membership from abuses by their leaders, even where the abusive members are in the majority at a meeting.

The International Union reports that they have urged the parties to resolve their differences for the benefit of the membership. The IEB seems to think that the local union's violations of the Constitution are the result of personal differences. The IEB fails to see that I have been trying for years to educate members and to motivate them to make the union stronger so that it can protect members instead of giving the company a free hand to abuse its employees. The animosity and hard feelings at this local union come from those who do not want help the members. The IEB is like the blind being led by the blind Local 1949 Executive Board. Does the IEB think that the repetition of the falsehoods presented by the local executive board will cause them to be accepted as truth?

DISCUSSION

This record supports a conclusion that the local executive board members did not clearly comprehend their Constitutional role in reviewing charges presented pursuant to Article 31 of the International Constitution. When a local union member presents a charge pursuant to Article 31, the local union executive board must determine whether the allegations made, if assumed to be true, would satisfy the requirement of each of the five items listed in Article 31, §3.²⁹ The local executive board has no role in

²⁹ Article 31, §3, provides, in pertinent part, as follows:

determining the merits of the charges presented. That determination is for the trial committee to make once it has been determined that the charge is appropriate for a trial. Charges that fail one of the tests set forth in Article 31, §3 should never be read to the membership for confirmation of the executive board's decision. The whole purpose of Article 31, §3 is to ensure that improper charges, particularly those which are political in nature, are dismissed following a dispassionate review. Article 31 is designed to insulate the review process from the type of unfortunate consequences that occurred in this case after a discussion of appellants' charges at a membership meeting descended into name calling and countercharges.

Furthermore, it was improper for the local executive board to assert in its response to Pippenger and Frigo that their charges were without merit. This declaration suggested that the executive board had made a substantive finding with regard to the charges. The executive board's only role is to determine whether one of the disqualifying criteria applies to the charge. In making this determination, the local executive board is to assume that the allegations contained in the charges are true. Except for the rare circumstance where an otherwise proper charge lacks any corroboration, the charging party need not present any evidence to support his or her allegations and no further investigation is to be conducted by the local executive board. This rule is stated explicitly in an Official Interpretation of Article 31 as follows:

“(2) Charges Are Not To Be Investigated

Article 31 charges are procedurally reviewed by local executive boards to determine if they are proper or improper pursuant to the sub-sections of Section 3. Charges are to be reviewed, as submitted, based on their specific content. No investigation is required or proper. The addition of

“Prior to notification to a member that charges have been filed against her/him, the Local Union Executive Board, or, in the case of an Amalgamated Local Union, the Unit Workplace Organization of which s/he is a member, shall review the charges and consider them improper if:

- (a) The charges do not state the exact nature of the alleged offense as required by Section 1 of this Article;
- (b) The charges are untimely under Section 2 of this Article;
- (c) The act complained of does not sustain a charge of a violation of the Constitution or conduct unbecoming a member of the Union;
- (d) The charges involve a question which should be decided by the membership at a membership meeting and not by the trial procedure.
- (e) In all cases, an otherwise proper charge(s) must be supported by substantial direct evidence as well as evidence of at least one (1) corroborating witness, which, if not rebutted, would establish all the elements of the charge(s).”

Section 3(e) at the 32nd Constitutional Convention requiring substantial direct evidence as well as evidence of at least one (1) corroborating witness does not change the historical method of review. (Las Vegas, 6/1/02)”

In support of their appeal to the PRB, appellants have submitted documents to substantiate their reports about the activities of the charged parties and they have requested to have these documents included in the official record. After reviewing the materials submitted, we have decided to deny appellants’ request to supplement the record. The offered materials are unrelated to the propriety of appellants’ charges and introduce the sort of inflammatory political issues that Article 31 is designed to avoid.

We do not mean to suggest that there is anything improper with appellants raising political issues before the membership. We appreciate appellants’ concerns about low attendance at membership meetings and limited availability of union representatives to deal with concerns of the members. Article 31 is not the appropriate Constitutional avenue to address those concerns, however. A trial committee can only impose the penalties described in Article 31, §10 of the Constitution. Concerns about the general administration of the local union should be addressed at a membership meeting through the democratic processes embodied in the local union bylaws. If appellants’ efforts to persuade the membership to act in response to their concerns are frustrated, they have recourse to the appellate procedures described in Article 33 of the UAW Constitution. In accordance with Article 33, §1, any action or any failure to act may be appealed. If appellants want the local union to conduct membership meetings during the summer months, they can introduce a motion to that effect at a membership meeting and encourage concerned members to come to the meeting and express their support for the motion. This is how decisions are made in a democratic institution.

In his appeal, Pippenger suggests that there has been some kind of concerted effort to evade enforcement of Constitutional requirements. We do not understand appellants’ complaint about not having access to the UAW Constitution. The entire Constitution is posted on the internet on the UAW’s website. Appellants are aware of Robert’s Rules of Order, so they know the basic procedure for getting an issue before the membership in the form of a motion. If the appellants believe that Local Union 1949 would benefit from the organization of the standing committees described in Article 44 of the Constitution, they can make a positive contribution to the operation of the local by doing the work necessary to organize a committee to pursue specific interests. Appellants can suggest procedures to encourage greater participation in membership meetings by union representatives. They can propose rules to establish office hours for such representatives so that members can have their questions answered. Of course, in pursuing these goals appellants need to accept the legitimacy of contrary views and address those views with persuasive arguments. Trials and penalties are not the means to accomplish these ends.

We agree with the IEB’s conclusion that appellants’ charge based on Article 9 of the Constitution is untimely. Article 9 requires local union officers to register and vote in

elections for civil officers. Some of the discoveries made by appellants' search of the public records for evidence of violations of this requirement date as far back as 2004. The time to raise this issue would be following the election of local union officers. The way to raise this issue would be to advise the newly elected officers of the requirement. Here again, there is a useful way to address appellants' legitimate concerns. A trial would clearly not be appropriate for lapses in voter registrations that occurred years previously.

In response to this appeal, however, we find that all of the appellants' charges were properly rejected pursuant to Article 31, §3(d) of the Constitution because they raise questions that should be decided by the membership at a membership meeting and not by a trial committee.

The decision of the IEB is affirmed.