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*(Frequently the International Executive Board is referred to as the "IEB" , the Convention Appeals Committee as the "CAC", and the Public Review Board as the "PRB".)*

**THE FORTY-EIGHTH ANNUAL REPORT OF THE PUBLIC  
REVIEW BOARD TO THE MEMBERSHIP OF THE UNITED  
AUTOMOBILE, AEROSPACE AND AGRICULTURAL  
IMPLEMENT WORKERS OF AMERICA (UAW)**

**January 1, 2005, through December 31, 2005**

This report is submitted pursuant to Article 32, §8, of the International Constitution (2002 edition), which requires this Board annually to prepare and submit a report of its activities, including a summary of all appeals it has handled during the year, to the membership of the Union. This report covers the period between January 1, 2005 and December 31, 2005, and is the forty-eighth to be issued since the establishment of the Public Review Board by the amendment to the International Constitution on April 8, 1957.

**INTRODUCTION**

The Public Review Board (PRB) was created by action of the delegates to the Sixteenth Constitutional Convention of the International Union, UAW, April 8, 1957. In the words of the Constitution, it was formed "... for the purpose of insuring a continuation of high moral and ethical standards in the administrative and operative practices of the International Union and its subordinate bodies, and to further strengthen the democratic processes and appeal procedures within the Union as they affect the rights and privileges of individual members of subordinate bodies."

**MEMBERS OF THE BOARD**

The PRB is composed of seven members proposed by the International President, with the approval of the International Executive Board (IEB), to the delegates of each Constitutional Convention of the Union. Members of the Board as of December 31, 2005, were:

Professor Theodore J. St. Antoine, James E. and Sarah A. Degan Professor Emeritus of Law, The University of Michigan, Ann Arbor, Michigan, Chairperson.

Professor Benjamin Aaron, Emeritus Professor of Law at the University of California (UCLA), Los Angeles, California.

Professor Janice R. Bellace, Samuel Blank Professor of Legal Studies, The Wharton School of the University of Pennsylvania, Philadelphia, Pennsylvania.

Professor James J. Brudney, Professor of Law, Newton D. Baker-Baker & Hostetler Chair in Law, The Ohio State University College of Law, Columbus, Ohio.

Professor James E. Jones, Jr., Emeritus Professor of Labor Law and Industrial Relations, the University of Wisconsin, Madison, Wisconsin.

Professor Maria L. Ontiveros, Professor of Labor and Employment Law, University of San Francisco, San Francisco, California.

Professor Paul C. Weiler, Mackenzie King Professor of Canadian Studies, Harvard Law School, Cambridge, Massachusetts.

## **HOW THE PRB FUNCTIONS**

The PRB, jointly with the Convention Appeals Committee (CAC), acts as final appellate authority under the internal remedial procedures provided by the Constitution. In addition, it is the exclusive appellate authority for claims of violations of the Ethical Practices Codes.

### **Claims Arising Under the Constitution**

#### Jurisdiction

The general appellate jurisdiction of the PRB is defined in Article 33, Section 3(f) of the Union's Constitution. For the most part, the respective jurisdictions of the PRB and the CAC are the same, except that the PRB is barred from reviewing the collective bargaining policies of the Union and, in appeals which concern the processing of a grievance arising under a collective bargaining agreement, the PRB may decide an appeal on its merits only if it first determines that elements of fraud, discrimination or collusion with management affected its handling, or that its handling or disposition was devoid of any rational basis. Also, for appeals from the interpretations of the Constitution by the President pursuant to Article 13, Section 8, the appeal is to the IEB and then the CAC.

Ultimate appellate authority over claims involving the collective bargaining policy, or grievance processing, where the jurisdictional prerequisites for review by the PRB have not been met, is exercised exclusively by the CAC. However, in the event that the PRB should determine that the handling of an appellant's grievance has not been affected by fraud, discrimination or collusion with management or that its handling or disposition was not devoid of any rational basis, these findings are final and binding on all parties, and may not be revisited by the CAC. Decisions of the PRB are final and binding on the Union and its members and are not reviewable by the CAC; likewise, CAC decisions are not subject to review by the PRB.

#### Procedure

The internal remedies provisions of the UAW Constitution and Ethical Practices Codes are broad enough to encompass virtually any claim arising under the

Constitution as a result of the day-to-day operation of the Union. Article 33, Section 1, of the Constitution provides that a member may contest any action, decision or penalty of his/her local union or any of its units, committees, officers committeepersons or stewards, the International Union, its International Executive Board or any of its officers, Regional directors or International representatives, or one of its administrative arms, including its national departments and bargaining councils, or any other subordinate body. A failure or refusal to act by any of the foregoing, where it allegedly results in an injury, may also be appealed.

Unless an appeal is from an act or omission occurring at the International level, a member must first seek relief for his or her problem from the general membership of the member's local (or unit) within 60 days of the event subject of the appeal. Members of amalgamated local unions that have a joint council or other delegate body must seek redress from the delegate body or the general membership of the local as well as the unit. If dissatisfied with the result obtained at the local level, the member may, within 30 days, submit a written appeal to the International Executive Board, in care of the International President, Solidarity House, 8000 East Jefferson Avenue, Detroit, Michigan 48214. Appeals challenging acts or omissions occurring at the International level must be initiated within 30 days of the time the member first learned, or reasonably should have learned, of the event subject of the appeal. These appeals must also be sent to the International President.

The appeal will be referred for review and decision, either to an Appeals Committee of the International Executive Board or to the International President. The report and recommendation of these authorities are in some instances (where the appeal is decided by an Appeals Committee or where the President decides a case involving a grievance against an employer) reviewed by a nine-member committee of the IEB. The reviewing body's (nine-member committee or President) decision becomes the decision of the IEB unless, within ten days of circulation of the decision to all members of the IEB, one or more members request review by the full Board. In a few specified types of cases, however, Article 33, Section 2(b), of the Constitution provides that appeals shall not be taken beyond a specified level.

After receipt of the written decision of the IEB, a party, if dissatisfied, may appeal to the CAC or the PRB. Again this appeal must be in writing, setting forth the reasons for the appeal, and be submitted to the President of the International Union within 30 days of receipt of the IEB's decision. The President then transmits the appeal either to the PRB or the CAC, as the appellant may elect.

### **Claims Arising under the Ethical Practices Codes**

The Ethical Practices Codes of the UAW were adopted by the Twenty-second Constitutional Convention of the Union in April 1970. The Codes are printed in the Constitution of the Union immediately following the textual provisions of the Constitution itself. There are four Codes which encompass the following subjects: Democratic

Practices; Financial Practices; Health, Welfare and Retirement Funds; and Business and Financial Activities of Union Officials.

The procedures for processing claims involving allegations of violations of the Ethical Practices Codes are provided for in Article 32 of the Constitution and are processed in much the same manner as claims arising under the Constitution. If the claim relates to the operation of a subordinate body or any officer or representative thereof, the complaint must first be presented to the general membership of the local union. If the member fails to secure the redress sought from the local union, he or she is obliged to submit the complaint to the International Executive Board, which is then required to investigate the complaint, and notify the complaining member as to its disposition. Any party still dissatisfied, may appeal the decision to the Public Review Board. The PRB is also empowered, in the event it concludes that the action of the IEB did not satisfactorily dispose of the problem, and even in the absence of an appeal, to initiate its own review of the IEB's disposition of a claim of Ethical Practices Codes violations.

Complaints concerning the operation of the International Union must be certified by the membership of a local union to the President of the International Union. In a ruling in 1994, a majority of the PRB ruled that the Constitution requires that both filing and certification must be instituted within the time frame permitted by the Constitution. Both the IEB and the PRB are authorized to waive compliance with the certification requirement when, in either of their respective judgments, there are valid and substantial reasons for doing so. Such complaints are then processed in the same manner as described in the preceding paragraph. A complete description of the procedures for the processing of Ethical Practices Codes complaints is set forth in Article 32, Section 5, of the International Constitution.

### **Procedural Advice**

Any member of the Union seeking advice as to his or her procedural rights under the Constitution or the Ethical Practices Codes of the Union may contact the Public Review Board staff by telephone, fax, letter or electronic mail. The PRB's offices are located at 904 Starkweather, Plymouth, Michigan 48170. Its telephone number is (734) 454-9911. Its telefax number is (734) 454-9905. Its electronic mail (email) address is <prbuaw2@att.net>. The Board's staff will advise the member as to procedures available to him/her under the Constitution of the Union whereby he or she may seek relief for any problem cognizable by the Constitution or Ethical Practices Codes of the Union. Staff may not comment or offer an opinion, however, as respects the merits of a member's claim.

The Public Review Board's procedures for handling an appeal are codified in formal Rules of Procedure as these are promulgated, and modified from time to time, by the members of the PRB. A copy of the current Rules is available free of charge to any member of the UAW.

The first 1200 decisions of the Public Review Board are available in 10 bound volumes and may be ordered from the PRB's offices. The price of the volumes is \$120.96, which is the actual cost to the Union of their printing. Copies of individual decisions of the PRB are available to UAW members free of charge.

## **THE STATISTICS**

At December 31, 2004, there were 12 appeals pending decision by the Board. During the ensuing twelve months, 38 additional appeals were filed. In calendar 2005, the members of the PRB decided 37 appeals, 1 appeal was remanded back to the International Union, and 1 appeal was dismissed, leaving 11 appeals pending as of December 31, 2005.

The budget submitted by the PRB to the IEB for calendar year 2005 projected expenditures by the PRB of \$517,224. Actual expenditures were \$489,856. Projected expenditures for 2006 are \$561,662. A statement of cash receipts and disbursements, detailing the costs for operating the Public Review Board in calendar years 2004 and 2005, is included in this Report as Appendix B. The projected budget for calendar year 2006 is included as Appendix C.

## **APPEALS DECIDED—2005**

### **Case No. 1462**

*Terry B. Morgan v. UAW Local Union 832 (Erie, Pennsylvania) Region 9, (1/13/2005)*

### **Claim:**

The decision of the Local 832 Bargaining Committee to withdraw Terry Morgan's grievance protesting Management's refusal to allow him to bump into the Packer/Stocker classification lacked a rational basis.

### **Disposition:**

We are not confronted with the question whether the Union could have persuaded an arbitrator to enforce Morgan's right to bump into the Packer/Stocker position over Management's objection. The record supports the conclusion that but for the Local President's intervention Morgan would have been allowed to bump into the Packer/Stocker position. We find, however that the contract language does not support the President's interpretation, and the fact that other union members may have been denied seniority rights negotiated on their behalf based on a misunderstanding of the contract did not give the Bargaining Committee a rational basis for refusing to process Morgan's grievance.

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**Case No. 1476 II**

*Gwendolyn Gaston-Kelley, Member, UAW Local Union 1248 (Warren, Michigan) v. UAW DaimlerChrysler Department, Region 1 (4/12/2005)*

**Claim:**

Gaston-Kelley's removal from the position of Health and Safety Representative for Local 1248 violated rights guaranteed to her by the UAW Ethical Practices Codes.

**Disposition:**

A Department Director has broad discretion in the matter of appointing and removing special purpose representatives, but there is no evidence of an exercise of that discretion in this case. Gaston-Kelley never received anything from the DaimlerChrysler Department removing her from her appointed position as Local Health and Safety Representative. No letter was produced appointing a replacement for her while she was on special assignment at the NTC. The Local Union President could have requested her replacement and the DaimlerChrysler Department Director could have removed her from her position for reasons not inconsistent with the Ethical Practices Codes, but they may not accomplish her removal surreptitiously. She is entitled to notice of any action taken by the Union with respect to her job as Health and Safety Representative so that she can exercise her rights of appeal spelled out in Article 33 of the International Constitution. We find that Gaston-Kelley is still the Local Joint Health and Safety Representative for Local Union 1248, for she has never been removed from that position in a manner consistent with the expectations for fairness and uniformity contained in the UAW Ethical Practices Codes and the Union's stated policy concerning the appointment and removal of its special purpose representatives.

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**Case No. 1485**

*Randall W. Norris, Member, UAW Local Union 600 (Dearborn, Michigan) v. International Union, UAW, Region 1A (2/10/2005)*

**Claim:**

The International Representative's decision to withdraw a grievance protesting Norris' discharge for violating the terms of a reinstatement waiver lacked a rational basis.

**Disposition:**

Norris was a relatively low seniority employee who had been placed on probation as a result of chronic absenteeism. When he violated the terms of his probation, he was properly subject to discharge. The International Representative's decision not to appeal the Company's denial of Norris' grievance was clearly rational for his termination violated no provision of the collective bargaining agreement.

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**Case No. 1487**

*James Lescoe v. UAW Local Union 900 (Wayne, Michigan) Region 1A (5/12/2005)*

**Claim:**

Officials of Local 900 colluded with Ford Motor Company to cause Lescoe's discharge in order to prevent his meaningful participation in the rerun of an election for District Committeeperson and the Local's handling of Lescoe's grievance protesting the discharge lacked a rational basis.

**Disposition:**

The coincidence of Lescoe's discharge and the election is not sufficient circumstantial evidence to support the improbable conclusion that Ford Motor Company officials and the officers of Local 900 set up an unauthorized work stoppage simply to justify Lescoe's discharge. Nevertheless, we find that the Local Union's handling of Lescoe's grievance protesting the discharge was inadequate, for it never interviewed Lescoe's accuser or established any basis for the claim that Lescoe instigated the work stoppage. Lescoe obtained a settlement from Ford Motor Company on the issues raised by the grievance, so that aspect of the appeal is only relevant in that it kept him out of the plant while the rerun of the election was being conducted. Although, the decision to conduct an election under these circumstances was patently unfair, Lescoe's failure to appeal that decision to the membership has deprived us of any basis for action. The remedy requested by appellant cannot be granted for the Constitution does not authorize this Board to expedite appeals or supervise Local Union elections.

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**Case No. 1488**

*Roxanne M. Coyne, Member, UAW Local Union 12 (Toledo, Ohio) v. Region 2B (9/2/2005)*

**Claim:**

The International Representative's decision to withdraw Coyne's grievance protesting her discharge by Jeep Corporation lacked a rational basis.

**Disposition:**

Coyne was subject to discharge under the Company's policy of zero tolerance to violent conduct as the result of her repeated threats against co-workers. The Union had no contractual basis for insisting on her reinstatement.

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**Case No. 1489**

*James N. Redfern, Member, UAW Local Union 961 (Detroit, Michigan) v. International Union, UAW, Region 1 (1/13/2005)*

**Claim:**

Redfern's appeal of the decision to withdraw his grievance was timely, or, if it was not timely, the circumstances warranted a waiver of the time limits by the International President.

**Disposition:**

Redfern's appeal to the IEB from the President's refusal to waive the time limits applicable to his appeal was itself untimely, so we need not reach the question whether we would have jurisdiction to consider his argument that the circumstances warranted a waiver of the time limits.

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**Case No. 1490**

*Vickie Turner, Member, UAW Local 148 (Lakewood, California) v. International Executive Board, UAW, Region 5 (9/2/2005)*

**Claim:**

President Gettelfinger exceeded his authority under the International Constitution when he directed Local Union 148 to delete an amendment to its bylaws making the editor of the Local Union newspaper a full-time position.

**Disposition:**

The membership's determination that the full-time editor was a necessary expense did not preclude a determination by the International President, acting on behalf of the IEB, that such a provision was inappropriate in the Local Union's bylaws. Although the membership is entitled to determine what is a necessary expense for the Local within the meaning of Article 46, §1, in the absence of a published International Union policy on the issue, it is not the final arbiter of what is appropriate in its bylaws. The Constitution requires the membership to obtain ratification of its bylaws from the IEB. The IEB's authority and responsibility for ratifying bylaws necessarily includes the authority to require changes to bylaws for clarity or consistency based on the particular circumstances of the Local Union. The existence of other instances of fiscal extravagance on the part of the Local is not evidence of bad faith on the part of the International President. An executive body does not act improperly by addressing one existing problem without addressing all existing problems.

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**Case No. 1491**

*Carl Geniac v. UAW Local Union 12 (Toledo, Ohio) Region 2B (1/14/2005)*

**Claim:**

The Local Union's disposition of Geniac's five grievances concerning the assignment of work at DaimlerChrysler's Toledo Assembly Plant lacked a rational basis.

**Disposition:**

The parties agreed to resolve the work assignment dispute at issue based on an evaluation of the facility by the UAW DaimlerChrysler Department and a member of Management. Assistant Director Klea of the Daimler Chrysler Department explained that he based his decision on an analysis of the tasks performed and the skill level required for them. There is no evidence in the record to support a conclusion that discrimination or collusion with management influenced Klea's resolution of this complex issue, and the decision made was not irrational.

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**Case No. 1492**

*Roger Ferrell v. UAW Local Union 856 (Toledo, Ohio) Region 2B (1/14/2005)*

**Claim:**

The Local Bargaining Committee's decision to withdraw Ferrell's grievance protesting a three-day suspension lacked a rational basis.

**Disposition:**

Ferrell was disciplined for failing to bring his efficiency level up to the Company's standard. The Local Bargaining Committee withdrew a grievance protesting the discipline based on its conclusion that the Company's standard was reasonable. It was not irrational for the Local Bargaining Committee to conclude that evidence which failed to convince the Company that the standard was unreasonable would also be unpersuasive if presented to an arbitrator.

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**Case No. 1493**

*Diego F. Perez, Member, UAW Local Union 12 (Toledo, Ohio) v. Region 2B (2/10/2005)*

**Claim:**

The Regional Representative's decision to withdraw a grievance protesting Perez's permanent layoff lacked a rational basis.

**Disposition:**

The collective bargaining agreement specifically allows the employer to lay off employees permanently when appropriate. Perez argued that the contract prohibited management from replacing him with a non-bargaining unit employee, but the contract does not state that unequivocally. The restriction on the performance of bargaining unit work by members of management is so qualified that the Union would have been unlikely to persuade an arbitrator that it was intended to limit the employer's right permanently to lay off employees that is so clearly stated in the agreement. Furthermore, the Union had no basis for challenging the validity of the business reasons for Perez's layoff cited by the employer.

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**Case No. 1495**

*Damon Shepard v. UAW Local Union 174 (Romulus, Michigan) Region 1A (5/13/2005)*

**Claim:**

The decision of an International Representative to withdraw a grievance protesting Shepard's termination for insubordination lacked a rational basis.

**Disposition:**

Shepard insists that his discharge could not have been sustained because he completed the task assigned to him. The record demonstrates, however, that Shepard was discharged for his angry and disruptive behavior towards his supervisor in response to the assignment, rather than for a failure to complete any particular task. Representative Uram based his decision not to arbitrate Shepard's grievance on a prior ruling by the Umpire that an employee's uncooperative and harassing behavior toward his supervisor amounted to insubordination even though the employee ultimately completed his assignment. His determination that the case could not be successfully arbitrated cannot be said to lack a rational basis.

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**Case No. 1496**

*Zianne Ray-Barnett and Ernestine Sanders v. UAW Local Union 652 (Lansing, Michigan) Region 1C (2/11/2005)*

**Claim:**

The Local Committeeperson's withdrawal of a grievance protesting GM's refusal to transfer appellants to its new plant lacked a rational basis.

**Disposition:**

The new plant uses a system of teams whose members must be able to perform each of the tasks assigned to the team. There were no openings available on any teams that did not include at least one job outside of appellants' physical restrictions. There is no evidence that the Company discriminated against the appellants or violated their seniority rights, although it does appear that the team concept is less adaptable to employees with disabilities than an arrangement where each employee has only one job to perform.

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**Case No. 1497**

*Mike Larkin, Member, UAW Local Union 148 (Lakewood, California) v. International Executive Board, UAW, Region 5 (3/17/2005)*

**Claim:**

Charges concerning an attempt to sell T-Shirts bearing an unauthorized UAW Local 148 logo satisfied the requirements of Article 31, §3, of the International Constitution.

**Disposition:**

The authority to challenge the use of the UAW's official seal or name is vested solely in the International Secretary-Treasurer by Article 13, §16, of the International Constitution. That section preempts the use of charges presented by UAW members pursuant to Article 31 for that purpose.

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**Case No. 1498**

*Bill Schultz, Member, UAW Local Union 148 (Lakewood, California) v. International Executive Board, UAW, Region 5 (3/17/2005)*

**Claim:**

Charges that the Local Financial Secretary provided documents to a third party that revealed members' addresses and Social Security numbers satisfied the requirements of Article 31, §3, of the International Constitution.

**Disposition:**

The documents described in Schultz's charge were lost time vouchers and computer printouts of employee records that the Financial Secretary attached to an appeal filed pursuant to Article 33 of the Constitution. Records presented in support of Article 33 appeals frequently contain documents that reveal members' names, addresses and Social Security numbers. Although it may be well for Local 148 to consider adopting procedures to protect members' personal information on documents which may become part of a public record, the use of such information in support of an appeal does not constitute conduct unbecoming a union member, so the charge is inappropriate for submission to a trial under Article 31, §3(c), of the Constitution.

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**Case No. 1499**

*Bob King and Jane Ford, Members, UAW Local 600 (Dearborn, Michigan) v. Local 600 Executive Board, Region 1A (9/19/2005)*

**Claim:**

The manner in which Local 600 President Jerry Sullivan and Recording Secretary Al Murlone responded to appellants' election protests at a General Council meeting constituted conduct unbecoming a union member. King further charges that members of the Election Committee maliciously refused to place his name on the ballot for Financial Secretary-Treasurer.

**Disposition:**

Local 600's Bylaws assign specific bargaining and grievance handling responsibilities to the Financial Secretary-Treasurer. The International Union's policy forbidding retirees from holding offices which involve collective bargaining duties applies to any office, not only those described in Article 45. As a retiree, therefore, Bob King was ineligible to run for the office of Local 600 Financial Secretary-Treasurer. The Election Committee correctly applied the Constitution to declare King ineligible to run for the office of Financial Secretary-Treasurer, so King's charges arising out of that decision were

properly disqualified under Article 31, §3(c), of the Constitution. King's and Ford's charges addressing the manner in which President Sullivan chaired the General Council meeting on May 10, 2004, were properly disqualified under the well-established rule that officers will not be answerable to charges for actions taken in connection with their official duties.

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**Case No. 1500**

*Cecil D. Addison, Member, UAW Local Union 2069 (Dublin, Virginia) v. International Executive Board, UAW, Region 8 (9/2/2005)*

**Claim:**

Addison has perfected a timely appeal from the settlement of a policy grievance negotiated by the International Representative.

**Disposition:**

Addison's appeal on October 20, 2003, was timely. Although he learned of the settlement during a Unit meeting on June 20, 2003, he was also informed at that meeting that the Unit Chairperson intended to appeal. There is nothing in the record to refute Addison's assertion that he filed his appeal as soon as he learned that the Chairperson had not appealed.

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**Case No. 1501**

*Clarence J. Clark, Jr. v. UAW Local Union 325, (Hazelwood, Missouri) Region 5 (4/18/2005)*

**Claim:**

The Local Chairperson's decision to withdraw a grievance protesting Clarks' discharge by Ford Motor Company lacked a rational basis.

**Disposition:**

Although the specific offense that brought about Clark's termination was a relatively minor infraction, he was working under a Reinstatement Agreement which altered the standard of what constituted just cause for discharge. The Chairperson's conclusion that he could not convince the company to reinstate Clark was supported by the practice under the National Agreements in the automobile industry where a pattern of chronic absenteeism and tardiness has not been corrected after progressive discipline

and a last chance reinstatement. These considerations provided a rational basis for the Chairperson's decision.

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**Case No. 1502**

*Keith Wilson, Member, UAW Local Union 659 (Flint, Michigan) v. Region 1C, UAW (9/6/2005)*

**Claim:**

The decision to withdraw a grievance protesting Wilson's termination for failure to perform a job assignment lacked a rational basis.

**Disposition:**

The International Representative's decision to withdraw the grievance was based on an evaluation of the case by the Federal Mediator in accordance with the provisions of the collective bargaining agreement. Therefore, the decision cannot be said to have lacked a rational basis.

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**Case No. 1503**

*Timothy Eckert, Member, UAW Local Union 897 (Buffalo, New York) v. Region 9, UAW (9/6/2005)*

**Claim:**

Eckert's absence from work was protected under the Family and Medical Leave Act (FMLA) so that the decision to withdraw a grievance protesting his discharge for failure to respond to a Five-Day Quit Notice lacked a rational basis.

**Disposition:**

When Ford sent the Five-Day Quit Notice, Eckert no longer had the protection of FMLA leave, because he had already exceeded the 15 days allowed to an employee by the FMLA to provide medical certification to the employer. The National Agreement provides greater protection than the FMLA against a loss of seniority by an employee on medical leave. The Five-Day Quit Notice gave Eckert another opportunity to provide medical certification to justify his leave, but he did not respond to the notice within the time specified in the collective bargaining agreement.

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**Case No. 1504**

*Gregg Shotwell, Member, UAW Local Union 2151 (Coopersville, Michigan) v. UAW General Motors Department (11/29/2005)*

**Claim:**

The decision to combine the ratification votes of General Motors and Delphi Corporation employees on the 2003 National Agreement deprived Delphi employees of the right to participate in Union self-government in violation of the UAW's Ethical Practices Codes. Shotwell also argued that Article 19, §4, of the Constitution required that a Supplement to the National Agreement establishing wages and benefits for new hires at Delphi should be submitted to the Delphi membership for ratification.

**Disposition:**

The Democratic Practices section of the Ethical Practices Codes clearly recognizes that members do enjoy the right to self-government when they act through elected representatives. The ratification framework that Shotwell objects to was put in place by elected representatives acting on behalf of their constituents. The fact that combining the votes made the proposal to negotiate the Delphi Supplement less important to the electorate at large did not disenfranchise Delphi members. In any event, the Union has demonstrated that the 2003 UAW-GM-Delphi Agreement would have been ratified by the majority of the members from the combined Delphi local unions even if their votes had been counted separately.

The arrangement providing for ratification of the Delphi Supplement prior to the negotiation of the anticipated two-tier wage agreement was an integral part of the Negotiation Committee's strategy for preserving GM level benefits for Delphi's current employees. Article 19, §4, merely requires that National Agreements and Supplements shall be ratified; it does not dictate the framework for ratification. The International Union has the authority and the flexibility to establish ratification procedures. Article 19 provides the membership with a means for rejecting those procedures, but once the procedures are accepted by the majority, they govern the ratification process. Article 33, §3(f), precludes our review of the wisdom or fairness of the ratification process adopted.

Member Jones concurred.

**Case No. 1505**

*Joseph W. Karniewicz, Sr. v. UAW Local Union 1999 Executive Board (Oklahoma City, Oklahoma) Region 5 (6/23/2005)*

**Claim:**

Comments made by the Local Shop Chairperson and Second Shift Committeeperson amounted to conduct unbecoming a union member within the meaning of Article 31, §3(c), of the International Constitution.

**Disposition:**

Karniewicz' charge was properly disqualified under Article 31, §3(c), for his allegations do not sustain a charge of a violation of the Constitution or conduct unbecoming a union member. Karniewicz has not explained what he found objectionable about the Shop Chairperson's apparently innocuous jest. He states that he regarded the statement as threatening, but it is difficult to imagine what the nature of the alleged threat was. In this sense the charge also lacked the specificity required by Article 31, §3(a).

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**Case No. 1506**

*Johnnie Mae Cullins, Member, UAW Local 7777 (Detroit, Michigan) v. Region 1, UAW (6/23/2005)*

**Claim:**

The International Representative's decision to withdraw Johnnie Mae Cullens' grievance protesting the issuance of a written "Coach and Counsel" by MGM Casino Management lacked a rational basis.

**Disposition:**

Cullens' dissatisfaction with the handling of her grievance appears to stem primarily from her distrust of the Company's promise that the written warning would not be used against her for disciplinary purposes. There is nothing in the record to contradict the Employer's assertion regarding the intent of its written "Coach and Counsels." The International Representative had no contractual basis for challenging the notices, and her conclusion that Cullens had not suffered any injury that could be remedied through arbitration as a result of the notices had a rational basis.

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**Case Nos. 1507 &1510**

*Ron Willis and Rosalie Smith, Members, UAW Local Union 1999 (Oklahoma City, Oklahoma) v. International Executive Board, Region 5 (5/18/2005)*

**Claim:**

Appellants have perfected a timely appeal of the IEB's rejection of their election protest and the Local Union's refusal to count Ron Willis' vote and other improprieties affected the outcome of the Zone 2 Committeeperson election.

**Disposition:**

Although Smith's appeal from the IEB's decision was not filed within 30 days, we will not reject an appeal as untimely where the appellant has made a good faith effort to resolve the issues raised or to obtain information about appeal procedures. We find that principle applicable to Smith's situation. Furthermore, Willis raised identical issues in his appeal of the IEB's refusal to consider his appeal from the Local membership's decision not to hear his election protest. Nevertheless, we find that the appeals should be denied on their merits, for although Willis was wrongfully denied the right to have his vote counted in the Committeeperson election, the vote tallies demonstrate that there was only a remote mathematical possibility that his vote would have changed the outcome of the election. Smith also argues that three members voted in the wrong district, but we have consistently refused to order that elections be rerun based on post-election claims that members voted in the wrong district.

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**Case No. 1508**

*Josh Pairan, Member, UAW Local 2277 (Indianapolis, Indiana) v. Region 3, UAW (6/24/2005)*

**Claim:**

The International Representative's decision to withdraw a grievance protesting Pairan's termination for sexual harassment lacked a rational basis.

**Disposition:**

The record shows that the Local Union Representatives worked hard to build a case on Pairan's behalf. Unfortunately, the Local Union's investigation only produced more evidence of his objectionable conduct in the plant. The evidence clearly established that Pairan was constantly annoying his co-workers with behavior that would constitute harassment under the Company's Sexual Harassment Policy. Once this behavior was exposed, the Company's position that it had to terminate Pairan to protect itself from future liability was justifiable and there was really nothing the Union could do to save Pairan's job.

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**Case No. 1509**

*Douglas Patterson v. UAW Local Union 848 (Grand Prairie, Texas) Region 5 (5/12/2005)*

**Claim:**

The Local Union's withdrawal of a grievance charging the Company with violating the distribution of overtime provisions in the collective bargaining agreement was motivated by discrimination and lacked a rational basis.

**Disposition:**

The Local presented Patterson's arguments to the Company, but it was not persuaded to change its position. The Local Union's determination that the Company's position could not be successfully challenged was based on the experience of former Committeemen and the established past practice. Patterson's claim that the Union's decision to accept the Company's interpretation amounted to discrimination against second shift employees is not the sort of claim over which we have jurisdiction. We are authorized by the Constitution to consider claims of discrimination against protected classes of employees, but not the disadvantages arising out of negotiated contractual arrangements.

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**Case No. 1511**

*Mary K. Espinosa v. Local Union 719, UAW (Countryside, Illinois) Region 4 (9/6/2005)*

**Claim:**

Mary Espinosa was eligible to run for the position of Shop Chairperson despite her status as a temporary employee.

**Disposition:**

Espinosa was ineligible to serve as Local Union Shop Chairperson because of her status as a temporary employee. She argues that she should no longer be classified as temporary after having worked at Electro-Motive for nine years, but that is a different issue. The Union allowed GM to maintain these employees as temporary in order to keep this plant operating. As of this date, the Union has not been able to achieve permanent status for these employees through collective bargaining.

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**Case No. 1512**

*Nick Karras v. UAW Local Union 653 (Pontiac, Michigan) Region 1 (11/22/2005)*

**Claim:**

Karras was improperly removed from his position as Local Shop Committee Chairperson and declared ineligible to run for the position in 2004, based on the claim that his membership in good standing had been broken during the previous year.

**Disposition:**

Although Karras was entitled to rely on the advice given to him by the Local Financial Secretary regarding his dues obligations, his nonpayment of dues in November and December cannot be attributed to the Financial Secretary's advice. The Election Committee has the responsibility for determining a candidate's eligibility, and this Election Committee concluded that Karras was not eligible because of his failure to pay dues in November and December. This decision was within its discretion and there is no Constitutional basis for this Board to overturn it. On the other hand, the Local President had no authority to remove Karras from his elected position. Karras is entitled to be compensated by the Local Union for any monetary loss he suffered as a result of his removal before the expiration of his term.

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**Case No. 1513**

*John Travis Clark, Member, UAW Local Union 2069 (Dublin, Virginia) v. Region 8 (9/19/2005)*

**Claim:**

Clark argues that the Regional Representative's decision to withdraw his discharge grievance was discriminatory and lacked a rational basis.

**Disposition:**

There is no dispute that Clark did not report to work at Volvo during the period from April 19 until his seniority was broken on April 26, 2004. Although he called in his absence on April 19, he was not granted a leave of absence at that time. The fact that leave was granted to another employee under different circumstances would not constitute discrimination or unequal treatment in violation of the collective bargaining agreement. Volvo was authorized to break Clark's seniority after he was absent for five days without a reasonable excuse. As there was no violation of the collective bargaining agreement, the decision to withdraw Clark's grievance cannot be said to have lacked a rational basis.

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**Case No. 1516**

*Avila Hill v. UAW Local Union 12 (Toledo, Ohio) Region 2B (9/20/2005)*

**Claim:**

The Unit Chairperson's decision to withdraw a grievance protesting Hill's discharge under the Company's attendance program lacked a rational basis.

**Disposition:**

The Local Union tried to convince the Company to give Hill a chance to be reinstated if he could establish that he had overcome his substance abuse problems. When the Company refused, the Local had no contractual basis for continuing to pursue Hill's grievance.

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**Case No. 1517**

*Pam Collis, Member, UAW Local Union 730 (Grand Rapids, Michigan) v. International Executive Board, UAW, Region 1D (10/26/2005)*

**Claim:**

Charges against the Local Union President concerning the way he selected members to attend a Convention should have been submitted for trial pursuant to Article 31 of the Constitution.

**Disposition:**

Selecting members to attend conferences is part of the President's authority as chief executive officer of the Local Union. Nothing in the Constitution requires that such selections be made democratically or impartially. The gravamen of appellant's charge is that the President misrepresented the process he used to select members to attend the convention. This charge fails under Article 31, §3(c), of the Constitution, for there is no allegation that the President's misrepresentation was malicious. We have consistently held that a local union officer will not be answerable to charges for errors made in performing the duties of his or her office in the absence of an allegation of malice or ill will.

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**Case No. 1518**

*Corinne Franks and Harriet Smith, Members, UAW Local Union 7777 (Detroit, Michigan) v. Local Union 7777 Executive Board, Region 1, (12/20/2005)*

**Claim:**

Charges against the Local President and Financial Secretary should have been submitted to a trial committee.

**Disposition:**

Appellants' charge that the Financial Secretary failed to present accurate financial reports to the membership was properly disqualified for it amounts to no more than an accusation that the Financial Secretary was negligent in the performance of her duties. The charge concerning the Local President's failure to process appellants' charge was also properly disqualified under the rule applicable to charges concerning acts or omissions by local union officers. The charge that the Financial Secretary published false information about Smith and other Local Union officials was properly disqualified under the rule that sharp attacks made in the context of a political campaign do not constitute conduct unbecoming a union member. Appellants' charge concerning the unauthorized lease agreement was timely, for there is no evidence that appellants had any way of knowing about the execution of the agreement until the notice was mailed to the membership. Nevertheless, this charge too failed to satisfy the requirements of Article 31, §3, for there is no allegation that the Financial Secretary and President acted with any malicious intent. The approval of expenditures is a question that should be addressed by the membership at a membership meeting.

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**Case No. 1519**

*Kimberly Frederick-Brown, Member, UAW Local Union 1976 (Ypsilanti, Michigan) v. International Executive Board, UAW, Region 1A (12/21/2005)*

**Claim:**

The Local President improperly removed Frederick-Brown from her position as Bargaining Committee Chairperson and installed the candidate she had defeated in the position based on his conclusion that she was ineligible to hold the position as a part-time employee.

**Disposition:**

Frederick-Brown was eligible to hold the position of Bargaining Committee Chairperson under the Local Union's bylaws and there is nothing in the UAW Constitution inconsistent with a part-time employee holding the position of Bargaining Chairperson. Furthermore, it was error to install the losing candidate in the position when Frederick-Brown was declared ineligible. The proper method of replacing an ineligible

Chairperson would have been to hold another election. Frederick-Brown should be restored to her elected position and compensated for her losses.

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**Case No. 1520**

*Corinne Franks and Leon Paesani, Members, UAW Local Union 7777 (Detroit, Michigan) v. International Executive Board, UAW, Region 1 (12/20/2005)*

**Claim:**

Appellants were improperly disqualified from running in elections conducted by UAW Local 7777.

**Disposition:**

The failure of Local Union 7777 to collect all of the dues owed in 2001 must be attributed in part to a failure on the part of the International Union to provide assistance to the Local Union and information to the employees. Under these circumstances, a minor dues delinquency should not be used to disqualify potential candidates in local union elections. Franks was wrongfully disqualified from running for the office of Financial Secretary and a new election should be conducted for that office. On the other hand, Paesani was properly disqualified from running for Local Union President because he did not accept nomination in accordance with the rules established by the Local Union.

**Case No. 1521**

*Ramond V. Pilgrim v. UAW Local Union 6000 (Lansing, Michigan) Region 1A (10/26/2005)*

**Claim:**

The decision of the TOP Department Representative not to arbitrate a grievance protesting Pilgrim's discharge by the Michigan Department of Corrections lacked a rational basis.

**Disposition:**

The Michigan Department of Corrections sets a high standard of conduct for its employees both on and off the job, which is codified in a series of rules. Pilgrim's conduct following his arrest on July 30, 2003, was entirely inconsistent with the Department's articulated standard of conduct for employees engaged in law enforcement duties. There has been no claim of improper motivation on the part of

International Representative Jensen, and his decision not to take Pilgrim's grievance to arbitration was clearly rational on the basis of this record.

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**Case No. 1523**

*Thomas R. Gillis v. Local Union 1976, UAW (Ypsilanti, Michigan) Region 1A (11/23/2005)*

**Claim:**

Gillis argues that the Local 1976 Bargaining Chairperson should have filed a grievance charging Eastern Michigan University with creating a hostile work environment.

**Disposition:**

None of the events described in Gillis' request for a grievance amount to harassment. The employer is not required to meet some kind of burden of proof before instructing an employee to stop wasting time. Gillis suffered no injury that could have been addressed through the grievance procedure, so the Chairperson's refusal to file a grievance on his behalf was rational.

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**Case No. 1524**

*Eric M. Sasaki v. UAW Local Union 1853 (Spring Hill, Tennessee) Region 8 (12/21/2005)*

**Claim:**

Sasaki filed a timely challenge to the ratification of the Local seniority agreement under Article 19, §3, of the International Constitution.

**Disposition:**

The basis for Sasaki's appeal is his misunderstanding of a letter written by a GM Department Coordinator to another member concerning the application of the Local seniority agreement. His objection to the Local Union's failure to restore GM seniority dates to former GM employees at Saturn is clearly untimely and without merit.

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## APPENDIX A

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- 1521 Ramond V. Pilgrim v. UAW Local Union 6000
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**APPENDIX B**

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

**STATEMENT OF CASH RECEIPTS AND DISBURSEMENTS**  
(Comerica-Plymouth)

**January 1 to December 31**

	<b>2004</b>	<b>2005</b>
<b>Cash on Deposit</b>	\$ 60,642.00	\$ 79,308.00
<b>Receipts</b>		
International Union, UAW	<u>465,341.00</u>	<u>505,853.00</u>
	<u>525,983.00</u>	<u>585,161.00</u>
<b>Disbursements</b>		
Compensation-Board Members	112,560.00	152,173.00
Salaries-Staff	219,125.00	225,072.00
Social Security and Payroll Taxes	15,775.00	16,924.00
Telephone	2,003.00	3,741.00
Office Supplies and Expense	19,462.00	18,566.00
Equipment – Computer	4,800.00	-0-
Printing and Mailing Expense	3,004.00	308.00
Insurance-Health, Pension and General	26,821.00	8,832.00
Accounting	4,000.00	6,000.00
Executive Sessions and Hearings	26,785.00	48,678.00
Personal Property Tax	745.00	112.00
Travel	495.00	-0-
Rent	9,450.00	9,450.00
Consulting	1,650.00	-0-
<b>Total Disbursements</b>	<u>446,675.00</u>	<u>489,856.00</u>
<b>Cash on Deposit</b>	<u>\$ 79,308.00</u>	<u>\$ 95,305.00</u>

**APPENDIX C**

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

**ESTIMATED BUDGET**

**January 1 to December 31, 2006**

**Cash on deposit** 12/31/05 \$95,305

**Receipts:**

International Union, UAW 1/1/05 - 12/31/05 \$505,853

**Disbursements**

**Actual  
2005**

**Proposed  
2006**

Compensation-Board Members	\$152,173	160,000
Executive Sessions and Hearings	48,678	50,000
Insurance		
Health	-0-	53,000 <sup>1</sup>
Disability	4,071	4,200
Worker's Compensation	1,919	2,000
Fidelity Bonds	750	750
Pension Reserve	2,092	2,000
Pension Contributions	-0-	2,000
Salaries-Staff	225,072	230,000
Social Security and Payroll Taxes	16,924	17,000
Office Supplies and Expenses	18,086	20,000
Personal Property Tax	112	112
Website and Mailing Expenses	788	600
Rent and utilities	9,450	10,000
Telephone	3,741	4,000
Accounting	\$6,000	\$6,000

**Total Disbursements**

**\$489,856**

**\$561,662**

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<sup>1</sup> This premium, previously paid by the International Union, is now being billed directly to the PRB. It was not part of last year's budget.