

October 27, 2019

To: Recording Secretary, and...
Election Chairperson
UAW Local _____

RE: APPEAL OF 2019 GM-UAW RATIFICATION VOTE

Dear Recording Secretary Local Union _____,

As a UAW member, and under the provisions provided for in the UAW Constitution Article 38, Section 11; and precedent provided by Public Review Board Case No. 1753 – Shingledecker v UAW GM Department – and as referencing Articles 19 et al, and 50 et al; on this date, I respectfully and formally appeal – in writing - the UAW ratification vote on the 2019 GM-UAW Tentative Agreement for the following four (4) reasons:

Appeal Reason Number One (1):

The ratification vote violated the preamble of the UAW Constitution regarding “The precepts of democracy”, “democratic values”, requirement “to promote real and meaningful participatory democracy”, “to realize the goals of participatory democracy”, “to realize the goals of participatory democracy”, and that “Management must accept union organization and collective bargaining as an essential and constructive force in our democratic society”; as further detailed below”

1. Preamble Paragraph 2 – in total – speaks; “The precepts of democracy require that workers through their union participate meaningfully in making decisions affecting their welfare and that of the communities in which they live.” Appellant offers the well-recognized definition of the “8 precepts of democracy”:

- i. Free elections are used to select representatives of the people,

- ii. The powers of government are based on the consent of the governed,
 - iii. Public questions are decided by the will of the majority,
 - iv. Rule of law guarantees rights and freedoms,
 - v. People retain the right to alter or abolish a government that becomes destructive and form a new government,
 - vi. Equality under the law is promised for all citizens,
 - vii. Majority rule will prevail with the rights of minorities protected,
 - viii. The organization of government is based on the separation of powers, which includes the concept of checks and balances.
2. Preamble Paragraph 4 – in part – speaks; “...This belies the democratic heritage we cherish as citizens in a society rooted in democratic values...”
 3. Preamble Paragraph 7 – in total – speaks; “Therefore, the UAW has the duty and responsibility to promote real and meaningful participatory democracy through its members and their families, so that free people and their institutions may be heard in the councils of government and so that officeholders are guided by principle alone.”
 4. Preamble Paragraph 8 (objectives) Bullet # 1 – in total – speaks; “Management must accept union organization and collective bargaining as an essential and constructive force in our democratic society”
 5. Preamble Paragraph 8 (objectives) bullet # 5 – in total – speaks; “Union members must take seriously their responsibilities as citizens and workers, through their union and individually, to realize the goals of participatory democracy and responsible and accountable government.”
 6. Thus, the Preamble of the UAW Constitution speaks of “democracy” its precepts and principles five (5) times, that Government is based on “the consent of the governed” – “The consent of the governed” is also confirmed by the eight (8) precepts of democracy.

Additionally, For Appeal Reason #1

1. Appellant observes that the Public Review Board on at least 4 occasions [cited below] ruled that there are no procedures for conduct of ratification votes. In 1999 the PRB actually suggested the constitution address the procedures for the conduct of ratification votes and in 2001 the PRB pointed out that necessary changes have not been made. Appellant's current reading of Articles 19 and 50 of the UAW Constitution clearly indicates an absence of clear procedures as may be codified for the conduct of ratification votes. All of which is contrary to the four admonishments by the Public Review Board:
 - a. Liddell v UAW, 2 PRB 92, 103 (1974) (constitution provides no procedures for conduct of ratification votes),
 - b. Poszich v UAW, 2 PRB 125, 136 (1974) (constitution provides no procedures for conduct of ratification votes),
 - c. Baxter v Local 659, 10 PRB 337, 340 (1999) (PRB suggests that the constitution address procedures for the conduct of ratification votes and challenges),
 - d. Baxter v Local 659, 11 PRB 312, 316 (2001) ("Some clarification to address the role of challengers might help respond to the procedural misgivings raised in this type of case, but that is a judgment for the members of the union to make, and to this point they have not done so."),
2. Appellant with emphasis observes that no such adjustments have been made to the UAW Constitution for codified changes as strongly suggested no less than four (4) times by the Public Review Board as indicated above.

3. Article 50 Section 1 (b) of the UAW Constitution provides for application to the I.E.B. for a ratification procedure, to include an appeal process. However, no such documents are available for a full procedure to include an appeal process in the now appealed 2019 GM-UAW ratification vote. Thus, in violation of all of the above democratic policies and procedures as required by our UAW Constitution, and strongly suggested by the United Auto Workers' Public Review Board.
4. Additionally, because there is no codified procedure in the UAW Constitution, in some cases, the local union bargaining committee – with a vested interest in the outcome - is empowered to conduct the ratification. Therefore, causing a conflict of interest, and adverse to good governance - # 5 above.
5. **Thus, the above gives rise to this “Appeal Reason Number 1”.**

Appeal Reasons Number 2 through 4 – As Considered Individually

1. Appellant contends that no member should be subjected to voting on any Tentative Agreement and/or any Collective Bargaining Agreement that contains language that may violate the United Auto Workers Constitution, Possibly Federal Law and/or the Ethos of Labor Itself.
2. While appellant is fully aware of PRB Case # 1504 Shotwell v UAW General Motors Department, that indeed affords “protections of the merits of the Union’s bargaining policies”. Appellant contends that such merits are exemplified as;
 - a. Members wanted a 5% raise but only got 3%
 - b. Members wanted a water cooler at bay post G-12, but didn’t get it.

3. However, appellant contends that PRB Case # 1504 Shotwell v UAW General Motors Department PROTECTIONS DO NOT rise to the level of protections for violations of the U.A.W. Constitution,
4. While it is yet unclear if violations of the UAW Constitution in this ratification of the agreement actually exist, and as such appellant defers to those with authority and proper credentials to make such a final determination. Non-the-less, appellant offers the additional Appeal Reasons 2 through 4 below:

Appeal Reason Number 2:

1. Article 13, section 22 of the UAW Constitution states;
 - a. "...It shall be left to the discretion of the Local Union to determine the duration of the period for which work permits are issued. In no case, however, shall work permits be issued to any worker for a period of more than three (3) consecutive months."
 - b. Appellant contends that "Work Permits" are issued to any and all workers who are not "Full Seniority Members".
2. Appellant notices that the 2019 UAW/GM National Agreement unchanged Paragraph 57, paragraph one [Member attains full seniority in 90 days]; **does indeed comport with** the UAW Constitution Art 13, Sec 22;
3. Appellant also notices that the 2019 agreement allowed Appendix A to be adjusted to indicate a period much greater than three consecutive months as provided for and required in UAW Constitution Article 13, section 22.

4. Thus, the above gives rise to the possible UAW Constitutional violation, that additionally gives rise to this “Appeal Reason Number 2”.

Appeal Reason Number 3:

1. UAW Preamble Paragraph 3 States:
 - a. Managerial decisions have far reaching impact upon the quality of life enjoyed by the workers, the family, and the community. Management must recognize that it has basic responsibilities to advance the welfare of the workers and the whole society and not alone to the stockholders. It is essential, therefore, that the concerns of workers and of society be taken into account when basic managerial decisions are made.
2. UAW Preamble Paragraph 4 States:
 - a. “The structure of work established by management is designed to make of the workers an adjunct to the tool rather than its master.”
3. UAW Constitution: Article 2 – Objects States:
 - a. Section 1. To improve working conditions, create a uniform system of shorter hours, higher wages, health care and pensions; **to maintain and protect the interests of workers** under the jurisdiction of this International Union.
4. Appellant now notices that the 2019 UAW/GM Collective Bargaining Agreement Appendix K Paragraph 2 states:

- a. The parties have pledged to continue working together, consistent with this Understanding and other provisions of the National Agreement **to enhance the Company's competitive position.**
5. Appellant now notices that the 2019 agreement Appendix K Paragraph 2 requires the UAW "... to enhance the Company's competitive position, **and not** "...to maintain and protect the interests of workers under the jurisdiction of this International Union. As required by the UAW Constitution Article 2, Section 1.
6. **Thus, the above gives rise to the possible UAW Constitutional violation, that additionally gives rise to this "Appeal Reason Number 3".**

Appeal Reason Number 4:

1. UAW Constitution: Article 2 – Objects States:
 - a. Section 4. "...To enforce existing laws; **to work for the repeal of those which are unjust to Labor;**"
2. Appellant now notices that in the 2019 Tentative Agreement UAW/GM Collective Bargaining Agreement page 9, paragraph 12; the Pension Plan [and others] "...are agreed to and renewed and shall be the same as those of the most recently expired Supplemental Agreements," Thus, the following language was allowed to remain in the 2019 UAW/GM Collective Bargaining Agreement:
 - a. Section 4. Funding Based Restrictions (Pension Protection Act of 2006)
 - i. (a) Limitations Applicable If the Plan's Adjusted Funding Target Attainment Percentage Is Less than 80 Percent. But Not Less Than 60 Percent. Notwithstanding any other provisions of the Plan. if the

Plan's adjusted funding target attainment percentage for a Plan Year is less than 80 percent (or would be less than 80 percent to the extent described in Section 4(a)(ii) below) but is not less than 60 percent. then the limitations set forth in this Section 4(a) shall apply.

ii. (a)(i)"...unless the present value of the portion of the benefit that is being paid in a prohibited payment does not exceed the lesser of:

1. (A) **50 percent of the present value of the benefit** payable in the optional form of benefit that includes the prohibited payment; or

2. (B) **100 percent of the PBGC maximum benefit guarantee amount** (as defined in Section 1.436- I (d)(3)(iii)(C) of the Treasury Regulations)."

3. Appellant now notices that the 2019 Tentative Agreement UAW/GM Collective Bargaining Agreement allowed language to remain in the 2019 agreement that contains verbatim language from the Pension Protection Act of 2006. Also noting such language was NOT in the 2007, or 2011 UAW/GM Collective Bargaining Agreements – both such agreements subsequent to the PPA of 2006.
4. Appellant now notices, as I understand it, that the 2019 UAW/GM Collective Bargaining Agreement language provides for pension reductions of up to 50% should the pension funding level fall below 80%. [Not outlined here but even greater reductions of 100% should the pension funding level fall below 60%.]

5. Appellant now notices that the Federal Law – Pension Protection Act of 2006 that seeks to cut pensions by 50% should pension funding levels fall below 80%; is De-Facto a law that is “unjust to Labor”, and as such UAW Leaders are required by UAW Constitution to work to repeal the Pension Protection Act of 2006 as a law that is “unjust to labor.”
6. Appellant now points out that the 2019 UAW/GM Collective Bargaining Agreement Pension Plan Supplement – Pension Protection Act 2006 language that was allowed to remain in the Collective Bargaining Agreement does seem to **AFFIRM** the Pension Protection Act of 2006 “unjust to labor” federal Law, **rather than work to REPEAL it as a law “unjust to labor”**, as required by the UAW Constitution Article 2, section 4.
7. **Thus, the above gives rise to the possible UAW Constitutional violation, that additionally gives rise to this “Appeal Reason Number 4”.**

What Possible Remedies Could Exist In This Instance of Ratification Appeal?

1. Of Course, this appellant is fully aware that higher adjudicating authority has absolute right to discern whatever remedy it so choses. However, this appellant in no way desires to cause an order for a costly national reelection, So I humbly offer the following.
2. Regarding “Appeal Reason Number 1” – If Affirmed, there exists precedent to suggest a change UAW Constitution, so as to properly codify a full ratification procedure.

3. Regarding “Appeal Reasons Number 2 through 4” – If Affirmed, individually or in the collective; this appellant is unaware of any such remedy precedent for possible violations of the UAW Constitution of a ratification vote. Therefore, I humbly suggest that – **IF AFFIRMED** – that there was in-fact a violation of the UAW Constitution regarding any one and/or all of appeal reasons 2 through 4 above, that a simple declaration by and through the highest authority affirming that a violation of the UAW Constitution does indeed exist. From that exact and specific date of absolute confirmation of a Constitutional violation, **then and only then,** may give rise to yet other actions.

4. Further, if any “Appeal Reasons Number 2 through 4” are affirmed, this appellant notes that the parties giving rise to such violation(s) include, but not limited to any and all parties who by and through their signature on the 2019 UAW/GM Tentative Collective Bargaining Agreement Highlight Signature page [attached] caused such potential UAW Constitution violations of the 2019 UAW/GM Tentative Collective Bargaining Agreement ratification vote.

As I await a final decision, it is my earnest desire for the best result for all members, and that this ratification vote appeal fully represents those desires.

Thank you and the entire membership for your consideration of this appeal.

RESPECTFULLY APPEALLED

Signature

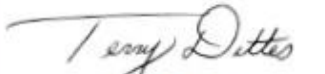
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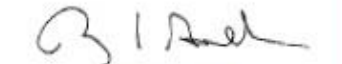
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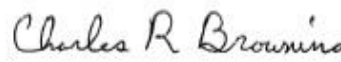

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