

5960 Membership Contact
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October 25, 2010

National Labor Relations Board
Detroit (7)
477 Michigan Ave, Room 300
Detroit, MI 48226-2569

Complaint against the United Auto Workers (UAW) for violations of rights under federal law
and the UAW Constitution

- failure to provide copy of agreement in UAW Local 5960 to membership
- refusal to allow membership ratification of agreement
- failure to reasonably inform membership of life-altering changes to contract
- negotiation of agreement in secret without fair notice to the membership
- making false and misleading statements to membership that would have led reasonable people to believe their jobs were secure
- failure to Duty of Fair Representation
- violation of the Ethical Practices Code of the UAW Constitution
- violation of the National Agreement which restricts Tier II wages to new hires in non-core jobs

FACTS

UAW Local 5960 represents General Motor's Orion Assembly plant employees as exclusive collective bargaining agent. The membership has been on layoff status since early November 2009. The Orion plant has been under renovation and retooling for new product.

Basis of charge / Statement of the facts

Furthermore,

In the 2009 GM negotiations a Memorandum of Understanding (MOU) was agreed to on May 16, which is found at pages 99-100 of the modifications, and is entitled: "Re: Compact / Small Car Investment in U.S."

At a Local 5960 meeting on October 3, shop chair Mike Dunn announced that after months of negotiations, the shop committee had achieved an innovative agreement implementing the May 16 "Small Car" MOU. The innovation chiefly consisted in relegating 530 active members to "tier 2" status, with 50% wages akin to new hires. Tier 1 members (about 800 members) would work at full wages. This constitutes a solid 60% tier 1 and 40% tier 2 "red line." Previous practice had been to allow for a 25% tier II presence gradually through natural attrition. The seniority cut-off between tier 1 and tier 2 is approximately 10 years. Document 159 and the competitive operating principles were not cited as the reason for the concessions.

Chairman Dunn posted his speech on the local website at http://www.uaw5960.org/MIKES%20PODCAST%20OCT_Medium.wmv.

The Membership had no knowledge of the negotiations until Dunn announced it on October 3.

Furthermore,

On October 14 local member Shawn Brouhard went to the local and spoke to Tony Hufford, a local official, to ask for a copy of the new agreement. Brother Hufford told Sister Brouhard the only contracts being given out were the old local agreement, and the national 2009 modifications, which she already had.

On October 15 President Pat Sweeney emailed Brouhard, stating: "Shawn we have both the Orion small car language. We can't release but you can see it. Come to a union meeting."

Later on October 15 Brouhard called Solidarity House to appeal the local's refusal to provide a copy of the innovative agreement. She stated that was the purpose of her call to the receptionists with whom she spoke. The receptionists told her that Brian Zapp was the person to whom she needed to speak. She asked that Brother Zapp call her, but so far he has not.

UAW RULES

The May 16 MOU provided for assembly operations, and that the company would make certain investments for a certain capacity of a certain product according to certain strategies at an idled GM-UAW facility, adherence to document 159 of the 2007 national agreement, attainment of competitive operating agreement principles, and use of innovative ways to staff the operation.

Basis of charge / Statement of the facts

The May 16 MOU said nothing that would amend members' article 19 sec 3 rights to instruct bargainers as to their bargaining positions and article 19 sec 4 rights to ratify an agreement, or rights to have a copy under article 19 sec.1 and the UAW's grievance handlers pocket guide .

Article 19 sec 3 provides: "No Local Union Officer, International Officer or International Representative shall have the authority to negotiate the terms of a contract or any supplement thereof with any employer without first obtaining the approval of the Local Union.... After negotiations have been concluded with the employer, the proposed contract or supplement shall be submitted to the vote of the Local Union membership...."

Article 19 sec 1 provides: "Whenever a Local Union or a unit of an Amalgamated Local Union becomes a party to an agreement on wages, hours or working conditions, it shall cause such agreement to be reduced to writing and properly signed by the authorized representative of all parties to the agreement."

Furthermore,

The Grievance Handlers Pocket Guide provides at pages 49 & 173: "A good grievance handler will give all new members a copy of the union contract and will explain to them their responsibilities as union members." "If the grievant requests copies of the grievance 'files,' only the grievance, the grievance answers, the grievance disposition, and the collective bargaining agreement should be provided -- at no charge." According to the pocket guide, local members have the absolute right to immediate copies of any agreement negotiated on their behalf.

Furthermore,

The UAW Constitution Ethical Practices Code states: "Each member shall be entitled to a full share in Union self-government. Each member shall have full freedom of speech and the right to participate in the democratic decisions of the Union."

ARGUMENT

Local 5960 officers respond that the membership ratified this agreement in 2009, when it ratified the May 16 MOU. But that letter is vague. It says only that an innovative agreement "will have to be put in place." It does give the shop committee authorization to commence negotiations. But it does not outline areas in which the innovations might occur, or how it will be put in place. Notice of the negotiations should have been given to the members during the months leading up to the deal.

Local 5960 officers respond the letter is a blank check. They say they were free to negotiate anything out of the ordinary, and to keep the membership in the dark. But that would mean they could have negotiated away just-cause protection, the right to grieve, the recognition of civil rights committees, and everything else.

Since there is nothing in the letter about how the innovative agreement would be “put in place” the membership had a right to expect it would be put in place in the usual way, through authorized and ratified negotiations.

INFORMATION ABOUT THE TIERED WAGE SCALE

Through the 2009 modifications of the 2007 National Agreement, the UAW and GM have instituted an elaborate seniority system at the Orion facility, as well as elsewhere. This system is characterized by an elaborate internal labor market with multiple job ladders. It is composed of contract employees, temporary workers, flex employees, and two tiers of full time assemblers. This system effectively creates an inequality of equities and opportunities. This system has the potential to be discriminatory. An example of when this might become an issue is in the matter of grievances. A common “shop floor” practice sometimes used by union stewards is to consider the importance of grievances based on seniority rather than merit.

The two tiered wage scale instituted via the 2007 contract was advertised by local officials to the membership as a temporary cost saving measure. The membership was given copies of a UAW GM REPORT called “Highlights” dated September 2007. The Highlights report states: “To keep work in UAW GM plants, and to create a realistic possibility of adding work for future growth, the proposed agreement establishes a new pay structure for entry-level employees. The new structure applies to what GM calls “non-core” jobs in all its facilities.” It continues, “Examples of ‘non-core’ jobs include, but are not limited to, material movement, general stores management, finished vehicle driving, paint mix room, chemical management and subassembly.” “Workers hired in under the entry-level structure will have the opportunity for traditional UAW GM jobs as positions become available.”

The reality of the Tiered wage scale turned out to be very different. Instead of working mostly off-line, non-assembly jobs, the Tier II ended up working directly on the assembly line performing the same work as the Tier I. No Tier II at Orion Assembly ever advanced to the higher wage and benefit tier.

At the October 3 meeting at Local 5960, Chairman Mike Dunn announced that the lower Tier II classification would no longer be limited to “entry-level employees.” Dunn told the membership that traditional employees who do not fall into the top 60% seniority category now must either “volunteer” for the lower pay classification or face dwindling unemployment with no benefits.

To further indicate to the membership the prospect of upward mobility had been negotiated away, Dunn stated that GM’s goal was to eventually make the Orion plant an all Tier II plant. He went on to say that the plant had become “red-circle” meaning no Tier I employees would be allowed to transfer into Orion. This contradicts a statement he made to membership during an orientation for Team Leaders at the Orion Plant in August. At the August orientation he stated that Orion would not be a Tier II plant and that rumors regarding that were false.

RECENT DEVELOPMENTS

On Wed Oct 13, some Local 5960 members began receiving “force” letters to GM Lordstown Assembly in Ohio, 300 miles away from the Orion Assembly plant. Local 5960 members were told that if they refused the “offer” that they would be prohibited from applying for other Local GM facilities in Michigan. The UAW leadership had been negotiating the new local agreement since the beginning of 2010. If members had been adequately notified of the 60/40 “red line” on the lower tier, many would have applied for local positions instead of waiting for the Orion Assembly to reopen after renovations.

On Wed Oct 20, the Local 5960 posted on its website, (www.uaw5960.org), a statement that reads: “GM Orion Management has requested that anyone who has decided not to accept an offer to Lordstown, OH, Assembly or Stamping come into Orion Assembly’s Personnel Office to sign-off on your choice. If you are currently working at another location, you can sign off at that location in their Personnel Department. **Failure to sign off could result in a voluntary quit.** For questions regarding this policy please call **Orion Personnel at 248-941-5503.**” Nowhere in the MOU about Job Security and Employee Placement, or the 2007 contract, does it say turning down an extended hire offer is considered a “voluntary quit.” The membership perceives this to be an act of hostility and evidence of undue influence by Management in Union affairs.

Tier I workers are being forced to move to make way for Tier II employees and new hires. There are several Memorandum of Understandings as well as contractual language after the 2007 Agreement that give Tier I employees priority in job placement matters. The local 5960 agreement effectively breaks this understanding.

REDRESS SOUGHT BY LOCAL 5960 MEMBERSHIP

We are members of the UAW Local 5960. We seek justice under federal law for fairness and our democratic right to a say in the collective bargaining process. We seek these remedies, but in no way wish to limit our options by listing potential solutions.

- a ratification vote on the Orion local agreement by membership
- nullification of all “forced” moves to Lordstown Ohio and other GM facilities
- all employees on the Orion Assembly seniority list be mailed a copy of the local agreement, that includes language clearly describing the 60/40 “two tier” provision, and be notified about the ratification vote
- all adversely affected members be made whole

Basis of charge / Statement of the facts

WITNESSES

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