

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

APPEAL OF:

DARRIN PARKER,  
Appellant

IN THE MATTER OF:  
DAVID O. ZAPPA, PRESIDENT  
UAW LOCAL UNION 1248  
(Warren, Michigan),

-vs-

CASE NO. 1473

UAW LOCAL UNION 1248 EXECUTIVE BOARD  
REGION 1  
(THE UNITED AUTOMOBILE, AEROSPACE  
AND AGRICULTURAL IMPLEMENT  
WORKERS OF AMERICA),  
Appellee.

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**DECISION**

(Issued June 23, 2004)

PANEL SITTING: Prof. Theodore J. St. Antoine, Chairperson,  
Prof. Benjamin Aaron, Prof. Janice R. Bellace,  
Prof. James J. Brudney, Prof. James E. Jones,  
Jr., and Prof. Paul C. Weiler.

We consider whether charges filed by Local 1248 Committeeperson Darrin Parker against Local 1248 President David O. Zappa satisfied the requirements of Article 31, §3, of the International Constitution.

**FACTS**

Darrin Parker is a Committeeperson for UAW Local 1248 in Warren, Michigan. David O. Zappa was elected President of Local 1248 in 2002. On August 9, 2003, Parker filed charges against Zappa pursuant to Article 31 of the International Constitution accusing Zappa of violating the Local Union's bylaws and engaging in conduct unbecoming a member of the Union.<sup>1</sup> In support of his charge, Parker

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<sup>1</sup> The charge states:

I, Darrin Parker, Committeeman Local 1248, District 4, 1<sup>st</sup> Shift, am charging President David O. Zappa with violating Article 31 of the Constitution, conduct unbecoming a union member/officer. I am also charging Mr. Zappa with violating the Local 1248 Bylaws. (Record, p. 27)

described in detail four situations where Zappa was alleged to have violated the Local Union Bylaws, or engaged in conduct unbecoming a member of the Union.

The first situation involved grievances filed by Parker's constituents in District 4. Parker claimed that Zappa interfered with the grievance process before it reached the third step in violation of the National Agreement. Parker stated further that Zappa slowed down the processing of the grievances by canceling grievance meetings scheduled for June 24 and July 1, 2003, and allowing Plant Manager Roger Hella to cancel a meeting scheduled for July 8. Parker concluded his charge as follows:

"...Dave Zappa allowed the process to be slowed down by not meeting with Labor Relations in Roger Hella's absence knowing the people were working under protest. President Dave Zappa is allowing his personal feelings against me to get in the way of his professional duties. This process has affected jobs, there [are] approximately 10 employees that will have to be moved to another shift and/or building as a result of this process..."<sup>2</sup>

The second situation described in Parker's charge concerned Zappa's behavior at a Local membership meeting on June 22, 2003. Parker charged that the way Zappa concluded the meeting violated the International Constitution and the Bylaws of Local 1248. Parker claimed that Zappa became angry and threw down the microphone and declared the meeting over. When people did not leave, Parker reported, Zappa left the hall and returned with Warren Police Officers and demanded that everyone leave. Parker wrote:

"...This violates the Bylaws and the Constitution which states that the running of meetings has standing rules and procedures to deal with situations and in the absence of standing rules, Robert's Rules of Order applies. This meeting was adjourned improper[ly] which is a violation of the Local 1248 Bylaws and a violation of the Constitution which is conduct unbecoming an officer..."<sup>3</sup>

Parker stated that after everyone left the hall, Zappa tried to convince the Warren Police officers to arrest Local Trustee, J. Leonard. He reported:

"...Most of the membership stayed until we saw Mr. Leonard was going to be o. k. We helped out every way we could by

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<sup>2</sup> Record, p. 28.

<sup>3</sup> Record, p. 28

giving verbal statements of what we saw. Mr. Zappa's conduct is truly unbecoming an officer/union member..."<sup>4</sup>

In his third claim, Parker asserted that Zappa deliberately failed to notify him of meetings where issues were discussed that affected members of his district. Parker claimed that as a result he was unable to answer questions from his constituents. He asserted that Zappa's behavior was designed to make him appear incompetent and separated from the rest of the Committee.<sup>5</sup> Parker stated that some of the people whom Zappa did invite to the meetings were not part of the Bargaining Committee, so that people were making decisions for the membership who were not elected to do so.

Finally, Parker accused Zappa of slandering him by telling his constituents that he was double-dipping from the Union and the Corporation. Parker wrote:

"...President Dave Zappa went into District 4, parading through the locations slandering Committeeman Darrin Parker's name. I have been told by the constituents that it was said by President Dave Zappa, 'Darrin's a thieving motherfucker. He embezzled \$20,000 from the Corporation and the Union. He double-dipped from the Union and the Corporation.' Mr. Zappa tried to coach people to take me to court for reasons he couldn't explain when asked..."<sup>6</sup>

Subsequently, Parker stated that Zappa went to the Local Union Hall and demanded to see Parker's financial records. Parker reported that the Local discovered on July 1, 2003, that his records had been stolen. Parker continued:

"...I understand the Company's taking advantage of the situation and working with Mr. Zappa in working against me. I expect this behavior from the Company because I do the best I can daily for my constituents and the Company sees me as a problem. I cannot understand or agree with the conduct of the Union President to work with the Company against his own. This is surely not the reason he was voted into this position. My President has attempted to get me fired by this company..."<sup>7</sup>

In closing, Parker referred to statements attached to his charges by members to support his charge.

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<sup>4</sup> Record, p. 28.

<sup>5</sup> Record, p. 29.

<sup>6</sup> Record, p. 29

<sup>7</sup> Record, p. 30.

The record contains a statement dated July 1, 2003, signed by Pamela Hughes, reporting that Zappa came to the Local and requested Darrin Parker's vouchers. Hughes further reported that Zappa took the vouchers from the Local without her knowledge.<sup>8</sup> Committeeperson Nikola Gjonaj and member Gwendolyn Gaston-Kelly wrote that they saw Zappa making copies of Parker's financial records on July 1, 2003.<sup>9</sup> Kevin L. Dunklin, Gregory Harton and Robert Moore signed statements indicating that Zappa had accused Parker of stealing from the Corporation and the Union.<sup>10</sup>

At a meeting on August 27, 2003, the Local Executive Board reviewed Parker's charges and concluded that they satisfied the requirements of Article 31, §3, of the Constitution and must be submitted to a trial procedure.<sup>11</sup> On September 4, 2003, the Local Executive Board sent Zappa the following notice:

"There was charges filed against you by Brother Darrin Parker for Conduct Unbecoming of a Union Member/Officer, violating Local 1248 By-Laws, Article 9, Section 1 and Article 16, Section 1, Letter 5, page 10 of the Book of Letters, Slander of a Union Member/Committeeman. Following the International Constitution Article 31, Section 3(a-e), the charges have been found proper and filed in a timely manner."<sup>12</sup>

Zappa appealed the Local Executive Board's decision to the International Executive Board (IEB) on September 8. In his appeal, he stated that he had not been presented with any specific charge.<sup>13</sup> On September 15, 2003, the Local Executive Board sent Zappa a more explicit description of the charges against him, but apparently not a copy of the charges.<sup>14</sup> The report on Zappa's appeal prepared by the International

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<sup>8</sup> Record, p. 20.

<sup>9</sup> Record, pp. 21, and 24.

<sup>10</sup> Record, pp. 22-23, 25, and 26.

<sup>11</sup> Record, pp. 31-32.

<sup>12</sup> Record, p. 33.

<sup>13</sup> Record, p. 34.

<sup>14</sup> The Local Executive Board's letter of September 15, 2003, describes Parker's charges as follows:

"There are charges being filed against you by Brother Darrin Parker for Conduct Unbecoming of a Union Member/Officer allegedly violating the following:

- A. Violating Local 1248 Bylaws which in Article 2, §1, states that it should be followed in the manner as the International UAW Constitution.
- B. Article 9, §1, which states that all members shall be represented by its bargaining committee which is being handled improperly.
- C. Article 16, §1: Slander of a Union Member (Committeeman of District 4).

President's staff for the IEB indicates that the Local Recording Secretary believed that she was not supposed to give Zappa a copy of the charges.<sup>15</sup> The report indicates that the President's Office directed the Local Union to furnish the accused with a copy of the charges.

Zappa responded to Parker's charges in a letter to President Gettelfinger on October 26, 2003. In response to the first situation described in Parker's charge, Zappa identified the grievances involved as Grievance 03-54 and Grievance 03-55. He stated that he had participated in third step meetings on these grievances as was his right under the UAW DaimlerChrysler National Agreement. Zappa acknowledged that meetings had been cancelled, but he said the meetings were rescheduled and the grievances were processed. He reported that the grievances are currently before the appeal board.<sup>16</sup>

In regard to the June membership meeting, Zappa reported that the meeting got unruly after he ruled Gwen Gaston-Kelly's charges against him out of order. Zappa stated that he had already appealed Gaston-Kelly's charges to the IEB, but she persisted in reading them. He said that he directed the Sergeant-at-Arms, Peter Brown, to remove the microphone from Gaston-Kelly, but Brown instead took the microphone out of Zappa's hand which resulted in an uproar by the membership. Zappa stated:

“...I could no longer control the meeting or membership, nor was the Sergeant-at-Arms supporting me. I was physically pushed and threatened by one of the Local's trustees, Johnny Leonard. The local police dept. was called and assisted in removing members from the hall...”<sup>17</sup>

Zappa stated that he did not invite Parker to a meeting about the Packaging Department's move to Building 112, because the matter did not involve Parker's district and he did not think Parker was interested. He said that when Parker brought this to his attention, he told Parker that he was welcome to be involved in any meetings.<sup>18</sup>

Zappa denied Parker's charge that he had slandered him in his district. He explained that while doing the Local Union payroll, he had discovered that Parker had been paid by the Company for time that he was also paid lost time by the Union. Zappa stated that when he called Parker to discuss the matter, Parker's replies were profane. Zappa acknowledged that he replied back with profanity and that the conversation

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D. Article 4, §1B, and Article 5, §1B, 1-8, which states that each member has a right to voice their views at all meetings, also that at each meeting the agenda must be followed and properly ran which was not done.” (Record, p. 38)

<sup>15</sup> Record, p. 82.

<sup>16</sup> Record, p. 46.

<sup>17</sup> Record, p. 47.

<sup>18</sup> Record, p. 47.

ended in hostility.<sup>19</sup> Zappa stated that when he asked Parker to repay the money to the Local, Parker responded that the practice had been going on for years and that he was not the only one who had done it. Zappa reported that he then made copies of Parker's financial records and turned them over to the Servicing Representative Ruben Turner. Zappa attached to his appeal copies of the records that he turned over to Turner.<sup>20</sup>

According to Zappa, after his telephone call to Parker about the double payments, Parker's constituents started calling him about the issue. Then Labor Relations called and said that Parker had filed a grievance charging Management with undermining the Union by paying him while he was on Union business. A copy of Parker's grievance is attached to Zappa's appeal.<sup>21</sup> Zappa wrote:

“...Unfortunately, Brother Parker at this point, has brought to the attention of the Company his wrong doings creating a larger havoc...”<sup>22</sup>

In further response to Zappa's appeal, Parker argued that the Company was having problems recording hours spent on union business, and that Zappa was aware of this.<sup>23</sup> Parker submitted a packet of materials containing all of the emails that were written concerning problems with the recording of hours for Union business dating back to 2002.<sup>24</sup> Parker explained that full-time representatives have the right to pick a building and shift at the Centerline Mopar Parts Division where they want to be assigned. Parker wrote:

“...They all exercised their contractual right but this facility could not carry all of us there because we are full-time representatives. Meaning, physically we would not be there. We all have jobs that require us to run from one building to

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<sup>19</sup> Record, p. 48.

<sup>20</sup> Record, pp. 49, and 56-79.

<sup>21</sup> The grievance states:

“We, the Union, protest management's actions to try to undermine Committeeman Darrin Parker. Supervisor Delbert Asbury has been told repeatedly how to handle UBUS. This has been an ongoing discussion since 6-20-02. Committeeman Parker and Mr. Asbury have asked the President of the local as well to forward the notices to management over at QIC/QEC. After Mr. Parker seen that the notices were not going to change then he started to send lotus notes and verbal communication to try and cover him. The alternate committeeman works for Mr. Asbury and communicated as well. It was impossible not to know when Mr. Parker was on union business. Committeeman Parker believes that this is an attack and an attempt to undermine him, because this was discussed so many times. Management attacked his integrity, honesty, and credibility because of his affiliation with the Union.” ( Record, p. 53)

<sup>22</sup> Record, p. 48.

<sup>23</sup> Record, p. 110.

<sup>24</sup> Record, pp. 113-165.

the next daily. The budget could not handle all these representatives coming from the QIC funds along with the gate ring situation. We would have to report hours worked and management felt it was too much of a headache and too costly to change the way it was set up..."<sup>25</sup>

Parker reported that on November 13, 2002, the Company's representative, Robert W. Stefanovich, wrote to him and the other Local Union representatives about the problem as follows:

"Again, this is about having your payroll based on turnstile entries/exits. This cannot be accomplished when your location is QIC/QEC and you regularly report to work at Center Line or Sherwood. The QIC/QEC are on different servers than the one for Center Line Warren/Sherwood and therefore gate rings at Center Line/Warren/Sherwood do not transmit back to QIC/QEC. I have inquired about whether systems changes could be done to have gate rings transmit between these locations but it would be very costly to do so, especially for only a few employees."<sup>26</sup>

Parker also included copies of lotus notes that he sent to his supervisor Del Asbury requesting corrections to his pay.<sup>27</sup> Parker complained that Zappa had sent a copy of his grievance, but not the Company's response on the second page of the grievance which states, "Grievance granted," dated July 25, 2003.<sup>28</sup> Parker also submitted to the IEB a letter of apology from the Company, which states as follows:

"Management regrets and apologizes for the inconvenience that being paid for Union Business has caused Committeeman Darrin Parker, 1<sup>st</sup> shift, district 4. In the future, management will monitor closely to make sure that this never happens again. This was not an attempt to undermine the Union; it was merely just an error."<sup>29</sup>

The International President's staff determined that a hearing was unnecessary on Zappa's appeal and prepared a report for the IEB based upon the information provided by the appellant and the Local Union. The President's staff found that Parker's first three charges were improper under Article 31, §3(c) and (d), of the Constitution. The

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<sup>25</sup> Record, p. 108.

<sup>26</sup> Record, p. 113.

<sup>27</sup> Record, pp. 119-127

<sup>28</sup> Record, p. 167.

<sup>29</sup> Record, p. 168.

report states that if Parker disagreed with the President over an interpretation of the National Agreement, he should have presented the matter to the Local Union membership rather than filing charges.<sup>30</sup> Similarly, the report concludes that Parker's complaint about the President's failure to invite him to a particular meeting should have been presented to the membership at a meeting rather than to a Trial Committee. In response to Parker's charge concerning the adjournment of the June membership, the report states:

“...We cannot recreate the meeting when he made his decision and under what circumstances he believed he needed to adjourn the meeting. Whatever his reasons for adjourning the meeting, and if he over-reacted, will be judged by the local union members as they evaluate his performance as the local union president...”<sup>31</sup>

The President's staff held that it was not improper for Zappa to take the Local's records and compare them to the Company's to determine if Parker had received pay from the Company and the Union for the same hours. The report states:

“...The local union president has every right and also an obligation to insure that the local union dues are in fact expended properly. Taking local union records and comparing same with corporation records is the only sure way to determine if double payments occurred. The local union president who conducts an investigation because he has reason to believe there might be a problem, is not subject to charges, per Article 31...”<sup>32</sup>

The report notes that President Zappa denied making disparaging remarks about Parker to people in his district in connection with the overpayments. The President's staff concluded that the evidence in support of this allegation was insufficient to satisfy Article 31, §3(e), of the Constitution.<sup>33</sup> The staff report indicates, however, that the President ought to have turned this matter over to the International Union for an investigation pursuant to Article 48, §5, of the Constitution, to eliminate the claim that the President was acting to injure his political opponents.<sup>34</sup>

The President's staff concluded that Parker's charges were improper under the provisions of Article 33, §3, of the Constitution and therefore should be dismissed. The

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<sup>30</sup> Record, p. 83.

<sup>31</sup> Record, p. 84.

<sup>32</sup> Record, pp. 87-88.

<sup>33</sup> Record, p. 87.

<sup>34</sup> Record, p. 88.

staff's report was adopted by the International Executive Board as its decision. Parker has now appealed the IEB's decision.<sup>35</sup>

## ARGUMENT

### **A. Darrin Parker:**

The contract states clearly what steps of the grievance process the President is allowed to be involved in and President Zappa always abuses these provisions. When Zappa cancelled the grievance meetings scheduled over the issue at Sherwood, he kept the people involved in a hostile situation. He met with Management by himself, without me, although I was the Committeeperson for the people involved. Zappa did these things deliberately to create disarray in my district for political reasons.

Our Constitution and Local Union Bylaws guarantee the members' right to voice opinions and concerns at Local Union meetings. Zappa ignored Robert's Rules of Order and the Local Union Bylaws in the way he cancelled the meeting on June 22, 2003. This is just another example of the way in which the President's conduct is inappropriate.

There were several meetings held in regard to the packaging move at the Centerline complex that I was not invited to. Since I am the Bargaining Representative for District 4, this was a violation of the Constitution and Bylaws. Zappa feels that he can invite only the people he likes to meetings concerning bargaining issues.

Slandering a person's name for political reasons is a violation of everything we stand for, as stated in the Constitution and Bylaws. I never took anything from this Local or the Company. Management agreed with me in regard to this situation. It was inappropriate conduct for Zappa to accuse me of stealing on the shop floor.

### **B. International Union:**

Appellant Parker's charge concerning President Zappa's delay in the processing of grievances, and the claim that he improperly discussed the grievances with Management, do not state a violation of the Constitution or the Local 1248 Bylaws. In essence, the charge indicates a disagreement over the method for discussing grievances with Management. This kind of dispute is not appropriately addressed by a trial convened pursuant to Article 31, §3, of the Constitution, but rather, it is a matter

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<sup>35</sup> Zappa was notified of the IEB's decision on December 15, 2003, but Parker was not notified. On January 8, Darrin Parker wrote to President Gettelfinger that he had not received any information about the IEB's decision on his charges. He said that he had been told that the charges had been found to be inappropriate. He indicated that if his charges had been found inappropriate, he wanted to appeal to the Public Review Board (PRB). The International Union forwarded Parker's appeal to the PRB on January 22, 2004. (Record, p. 91)

that ought to be brought before the membership for resolution. Therefore, these charges were properly disqualified under Article 31, §3(d), of the Constitution.

Similarly, the manner in which Zappa is said to have adjourned the membership meeting of June 22, 2003, could have been addressed by the Local 1248 membership at a subsequent meeting.

Parker's charge that he was not invited to participate in meetings regarding the movement of work within the plant does not state a violation of the Constitution or conduct unbecoming a union member.

The IEB correctly found Parker's charge that he was slandered to be improper under Article 31, §3(e), of the Constitution. That section provides that otherwise proper charges must be supported by substantial, direct evidence and the testimony of at least one corroborating witness. Parker's witnesses repeat what Parker alleged Zappa to have said, but in each case the conversation had no other witness. Their statements were also offered well after the fact. Parker's real remedy in this situation was to invoke the procedures of Article 48, §5, to clear his name.

The appeal should be denied.

**C. Response by Darrin Parker:**

The IEB states that I should take my concerns up with the Local Union membership at a membership meeting. If they had read my charges carefully, the IEB members would have seen that nothing can get done at these meetings. I filed these charges seeking help to have these issues addressed. How can I handle anything at a Local Union meeting when every motion you introduce and get support on, you are told to appeal it downtown? The current administration does not respect the Constitution, the Local Bylaws or Robert's Rules of Order, and the IEB knows exactly what is going on.

**DISCUSSION**

We have denied appellant's request for oral argument in this case, because further arguments would not assist us in dealing with the issues he presents.

We have repeatedly ruled that acts or omissions of a local union officer in the performance of his or her official responsibilities may not be the subject of Article 31 charges. *Comley v. Noble*, 1 PRB 347 (1965); *Libby v. Local Union 6000 Executive Board, UAW*, 9 PRB 549 (1998). In *Comley*, we acknowledged that an exception to this rule would apply if the official acted with malice or improper motivation. This is not a broad exception. Charges against union officials arising out of the performance of their duties will be closely scrutinized, but we have recognized the exception's applicability where the act charged involved an actual violation of the Constitution as opposed to a lapse in judgment. In *Wright v. Local Union 1069, UAW*, 5 PRB 775, (1990), for

example, we rejected charges against a Local Union President for refusing to attend a grievance hearing based on our conclusion that his refusal was not motivated by a desire to injure the grievants and did not violate any specific provision of the Constitution. In *Bolen v. Local Union 848 Executive Board, UAW*, PRB Case No. 1402, (2003), on the other hand, we upheld charges against the Local Executive Board for illegally suspending the Local Financial Secretary. We found that the Local Executive Board's action conflicted with specific Constitutional provisions regarding the suspension of elected Local officials, and so amounted to "willful and wanton disregard" of the Financial Secretary's right to due process under the Constitution.<sup>36</sup>

Parker's charge concerning Zappa's alleged mishandling of the tempestuous membership meeting falls clearly under the rule that acts or omissions of an officer in the performance of his official responsibilities may not be the subject of Article 31 charges, for there is no allegation that Zappa's conduct was in any way designed to injure Parker.

Parker's complaints about Zappa's involvement in the grievance procedure and his failure to include Parker in meetings affecting his constituents also arise out of Zappa's responsibilities as local union president. Parker's allegation that Zappa was trying to make him appear incompetent for political reasons does not allege the kind of improper motivation or malice that would bring his charges under the exception to the rule stated in *Comley*. We have recently ruled that political motivations alone do not amount to malice. *Crable v. Local Union 148, UAW*, PRB Case No. 1452, (2003). We find, therefore, that these charges fail to state a sufficient claim of conduct unbecoming a member of the union to satisfy the requirements of Article 31, §3(c), of the International Constitution.

Furthermore, we agree with the finding of the IEB, that the situations giving rise to these three charges ought to have been presented to the membership for resolution rather than to a Trial Committee, so that the charges were properly disqualified under Article 31, §3(d), of the Constitution as well. We considered allegations similar to Parker's in *Metz v. Local Union 842, UAW*, 1 PRB 628 (1971), and concluded that the issues raised should have been presented to the membership for resolution. We stated:

"...All of the conduct alleged by Mr. Metz concerns matters which, if true, would easily have been remedied by the simple expedient of a motion made at a meeting of the general membership. Thus, the membership could have directed the accused to notify appellant of unit executive board meetings, required him to submit unit minutes to the general membership (assuming such was his duty), to meet on Step 3 grievances, set aside illegal appointments and zoning and illegally conducted elections. None of these

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<sup>36</sup> PRB Case No. 1402, (2003), at page 14.

ends, we note, could have been accomplished directly as a result of the conviction of Mr. Leisinger..." (1 PRB 628 at 631)

We acknowledge Parker's complaint that the political situation at Local 1248 makes it difficult for him to have his issues presented at membership meetings. This circumstance does not make the subject of his charges appropriate for a trial pursuant to Article 31, however. Article 33 of the Constitution provides members with the appropriate means to challenge actions taken by local union officers in connection with their official responsibilities. In addition, Article 33, §1(d), permits members to appeal the failure or refusal to act by the International or any of its subordinate bodies.

Parker's charge that Zappa slandered him by telling his constituents that he had received money improperly from the Company and the Union presents a more difficult case. The International Union ruled that this charge failed under Article 31, §3(e), of the Constitution. Article 31, §3(e), states:

"In all cases, an otherwise proper charge(s) must be supported by substantial direct evidence as well as evidence of at least on (1) corroborating witness, which, if unrebutted, would establish all elements of the charges(s)."

This section was added to the Constitution based on our recommendation in *Cain and Dennis v. Local Union 862 Executive Board, UAW*, 9 PRB 407 (1997), to provide a tool for eliminating artfully drafted charges which, while technically satisfying the requirements of Article 31, §3(a) through (d), of the Constitution, were nevertheless wholly untrue.

Parker's charge concerning Zappa's alleged slander does not appear to present the kind of situation that Article 31, §3(e), was designed to address. In support of his charge that Zappa slandered him, Parker submitted signed statements from three separate witnesses reporting Zappa's statement that Parker was receiving money improperly. In a statement dated July 25, 2003, Robert More wrote:

"On 7-14-03, President Dave Zappa informed me that Committeeman Darrin Parker was stealing from the Local and the Company. He was talking about the hours that Committeeman Parker works and embezzling money from the Local. He also stated that Mr. Parker was double-dipping. ..." <sup>37</sup>

A statement signed by Kevin Dunklin confirms that on July 14, Zappa came into the plant and called Parker a thief. <sup>38</sup> Gregory Harton wrote on July 25, 2003:

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<sup>37</sup> Record, p. 26.

<sup>38</sup> Record, p. 23.

“On 7-14-03, Dave Zappa entered Warren (A-Building) and we engaged in conversation. Dave Zappa approached me and shared with me that the Committeeman is stealing from the Corporation and the Union. ...”<sup>39</sup>

The testimony of Parker’s witnesses is consistent about what Zappa is alleged to have said and when and under what circumstances he said it. Zappa denies that he slandered Parker, but he acknowledges that the controversy over whether Parker had received money improperly was real, and that he had had heated words with Parker over the matter. So, Parker’s evidence cannot be characterized as entirely uncorroborated. The charge was based on a real situation.

We find, however, that it was unnecessary for the IEB to reach Article 31, §3(e), of the Constitution, because Parker’s charge of slander against Zappa also comes under the rule in *Comley* and therefore fails under Article 31, §3(c), of the Constitution. As the IEB stated in its decision, a local union president has an obligation to insure that local union dues are expended properly. If Zappa believed that there was a problem with the recording of hours spent on union business, which there apparently was, it was not a violation of the Constitution or conduct unbecoming a union member for him to compare Parker’s vouchers with his payroll records to determine if double payments had occurred.

Zappa’s statement that Parker had received money from the Company for the same hours that he received reimbursement from the Local was simply true. Parker acknowledged that double payments had occurred because of an ongoing problem with the way the Company recorded time spent on union business. Apparently, Zappa interpreted Parker’s angry response to his telephone call regarding the overpayments as a refusal to repay the money. As the IEB has suggested, if Zappa believed that Parker was really refusing to return payments that he should not have received, he ought to have turned the matter over to the International Union for an investigation pursuant to Article 48, §5, of the International Constitution.

It was unquestionably indiscreet and unwise for Zappa to mention this situation to other members before all of the facts were known, but this error in judgment does not amount to the kind of malicious conduct that would subject a union officer to discipline for actions taken in connection with his duties as an officer. As we view the record, Zappa was merely stating what he believed to be the case, rather than acting with a deliberate intent to injure Parker. This is a fairly close call, but as we stated in *Wright*, charges against union officers arising out of their official responsibilities are to be discouraged.<sup>40</sup> In accordance with that principle, we find that Parker’s charge based on Zappa’s alleged slander fails to satisfy the requirements of Article 31, §3(c), of the Constitution.

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<sup>39</sup> Record, p. 25.

<sup>40</sup> 5 PRB 775 at 787.

The appeal is denied.