

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

APPEAL OF:

MIKE LARKIN, MEMBER
LOCAL UNION 148, UAW
(Lakewood, California),
Appellant

-vs-

CASE NO. 1497

INTERNATIONAL EXECUTIVE BOARD
REGION 5
(THE UNITED AUTOMOBILE, AEROSPACE
AND AGRICULTURAL IMPLEMENT
WORKERS OF AMERICA),
Appellee.

DECISION

(Issued March 17, 2005)

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

Mike Larkin argues that his charges against Local 148 members Micheal and Vickie Turner satisfied the requirements of Article 31, §3, of the International Constitution¹.

FACTS

On November 6, 2003, Local Union 148 Bargaining Committee Chairperson Rodman "Ron" Crable brought a box of T-shirts to a meeting of the Local Stewards Council. Crable advised the Chair of the meeting, Bill Howard, that the shirts were on sale for \$7.00 a piece. According to statements given by participants in the meeting, Crable stated that the shirts were made for the union stewards to demonstrate the strength of the Union and its members' solidarity in the shop.²

¹ At the time that Larkin filed his charges, Turner's surname was Meadows. She subsequently married and adopted the name Turner. We refer to her as Vickie Turner throughout this decision.

² Record, pp. 6, 7, and 13.

When the shirts were passed around, Steward Pat Bower observed that they were made in Mexico. Bower reported that she stated, “these are not union made and shouldn’t be sold here.”³ At this point the other people present began to ask about the origin of the shirts and the reason that they were being offered for sale at the Stewards Council meeting. Steward Tim Bilbrey described the reaction as follows:

“...The Stewards Council assembly room was now in complete disarray, and with everybody asking about the T-shirts. Then someone asked the Stewards Council Chair if the T-shirts were made and/or approved by our Union. Then Mr. Crable answered for him, and stated that these union steward T-shirts were made by our editor (Vickie Meadows) and that he was actually doing this as a special favor for our financial secretary (Mr. Micheal Turner).”⁴

Mike Larkin wrote that when Crable was questioned about who would receive the money from the sale of the shirts, he responded that the money would go to Financial Secretary Micheal Turner and Local Union Editor Vickie Turner who made them.⁵

On November 19, 2002, Mike Larkin filed charges against Ron Crable, Vickie Turner and Micheal Turner asserting that their attempt to sell T-shirts at the Stewards Council meeting violated Article 36, §5, Article 10, §8, and the Financial Practices section of the UAW Ethical Practices Codes.⁶ Larkin asserted that the charged parties

³ Record, p. 14.

⁴ Record, p. 13.

⁵ Record, p. 7.

⁶ Larkin’s charges assert the following:

“That on Thursday, November 6, 2003, the above parties engaged in and or supported racketeering and extortion or unauthorized sales of unofficial unauthorized, non-union made, imported shirts at the UAW Local 148 Stewards Council meeting held at the main hall of UAW Local 148. ...

That parties of the racketeering and extortion had no ‘point of special privilege’ from UAW Local 148 Stewards Council nor should have been allowed to partake of the Stewards Council for sale of said items. ...

That said racketeering and extortion had shirts imprinted on the backside with unofficial, unauthorized ‘UAW 148’ logo. ...

That parties of the racketeering and extortion counterfeited, imitated or falsified the International Union insignia, label. ...

That parties of the racketeering and extortion counterfeited, imitated or falsified the ‘UAW 148’ insignia, label. ...

That parties of the racketeering and extortion knowingly used such counterfeit insignia. ...

had imprinted the shirts with an unofficial, unauthorized UAW Local 148 logo in violation of Article 36, §5, of the Constitution.⁷ Larkin argued that the sale of the shirts amounted to racketeering and extortion in violation of Article 10, §8, of the Constitution, which prohibits the participation in rackets, such as numbers or bookmaking by elected union officials.⁸ He further stated that the fact that the shirts were being sold for the parties' personal gain violated paragraphs 2 and 3 of the Financial Practices section of the UAW Ethical Practices Codes.⁹ Finally, Larkin stated that the attempted sale of the T-shirts at the Stewards Council meeting violated Roberts' Rules of Order because the parties had no "point of special privilege" from the Chair for the sale.

Larkin's charges were presented to the Local 148 Executive Board at a meeting on December 18, 2003. The Executive Board determined that the charges satisfied the requirements of Article 31, §3, of the International Constitution.¹⁰ On December 22, Local 148 Recording Secretary Jacki Harris sent letters to the Turners and Ron Crable advising them that the Executive Board had determined that charges filed against them

That said racketeering and extortion of shirt sales were unbeknownst and unauthorized by UAW Local 148 or the UAW Local 148 Stewards Council. ...

That said racketeering and extortion of unofficial, unauthorized shirt sales were for the above-said parties' own personal gain. ...

That the parties of racketeering and extortion had made, brought to, and the intent was for sale of said unofficial, unauthorized shirts to the UAW Local 148 District Stewards of the UAW Local 148 Stewards Council. ..." (Record, p. 8)

⁷ Article 36, §5, of the UAW Constitution provides as follows:

"Any member who shall counterfeit, imitate or falsify the International Union dues receipts, insignia, label or buttons, or knowingly use such imitations or counterfeits, shall be expelled from this Union as the circumstances may warrant after trial has been accorded the accused."

⁸ Article 10, §8, of the UAW Constitution provides as follows:

"No member of any Local Union shall be eligible to hold any elective or appointive position in the International Union, or any Local Union, if s/he is affirmatively engaged in the promotion, implementation, furtherance, or support of organized workplace rackets, such as numbers, bookmaking, etc."

⁹ The cited paragraphs provide as follows:

"2. The International Union and its Local Unions shall not permit any of their funds to be invested in a manner which results in the personal profit or advantage of any officer or representative of the Union.

3. There shall be no contracts of purchase or sale or for rendering services which will result in the personal profit or advantage of any officer or representative of the Union. Nor shall any officer, representative or employee of the International Union or any Local Union accept personal profit or special advantage from a business with which the Union bargains collectively."

¹⁰ Record, p. 17.

satisfied Article 31, §3, of the Constitution. Copies of the charges were provided to the Turners and Ron Crable on January 26, 2004.¹¹

On February 25, 2004, Wilbert Sonnier, acting as a representative for Vickie and Micheal Turner, filed with the International Executive Board (IEB) an appeal from the Local Executive Board's determination that Mike Larkin's charges satisfied the requirements of Article 31, §3, of the Constitution.¹² In support of the Turners' appeal to the IEB, Sonnier argued that all of Larkin's charges were insufficiently specific to satisfy the requirements of Article 31, §3(a), of the Constitution. In each case, Sonnier stated that Larkin's charges stated conclusions without describing the facts on which they were based. Sonnier wrote that the charges failed to explain how the appellants were engaged in racketeering or extortion. Furthermore, he stated that the charges did not indicate how the appellants had counterfeited or falsified the Union's insignia. Sonnier also pointed out that Larkin failed to state how the acts complained of affected him or the membership of Local 148.¹³

Sonnier also argued that none of Larkin's charges described acts which would constitute a violation of the Constitution or conduct unbecoming a member of the Union, and therefore failed under Article 33, §3(c), of the Constitution. Sonnier pointed out that while Article 13, §16, of the Constitution authorizes the International Secretary-Treasurer to prosecute wrongful use of Union insignia, there is "standing permission" to use such marks for certain purposes, such as official UAW functions and identifying use by caucuses and other private groups within the UAW.¹⁴ In any event, Sonnier maintained that only the International Secretary-Treasurer is authorized to prosecute wrongful use of the Union's insignia.¹⁵

Sonnier stated that the actions described in Larkin's charges did not come close to establishing the promotion or organization of workplace rackets described in Article 10, §8, of the Constitution, so that all of the charges based on that section should be dismissed. Furthermore, Sonnier argued that Larkin had not described any action that would constitute a conflict of interest in violation of the Financial Practices section of the Ethical Practices Codes. Finally, Sonnier stated that members cannot be subjected to Article 31 proceedings for violations of *Roberts' Rules of Order*. Sonnier argued that the charges failed under Article 31, §3(d), as well in that they involved a question that should be decided by the membership rather than a Trial Committee.¹⁶

¹¹ Record, pp. 30, 31, and 32.

¹² The charges against Ron Crable were dismissed at Larkin's request. (Record, p. 33)

¹³ Record, pp. 39-43.

¹⁴ Record, p. 45.

¹⁵ Record, pp. 45-46

¹⁶ Record, pp. 47-51

In response to the Turners' appeal, Recording Secretary Jacki Harris submitted minutes from Local Executive Board meetings on April 24, 2003, and May 22, 2003, where the issue of producing T-shirts with the Local Union's insignia was discussed. Harris wrote that the Local wanted to produce union-made T-shirts for the stewards and other members. She reported that she had presented quotes for producing such shirts to the Local Executive Board, but that Micheal Turner insisted that any decision to manufacture and distribute T-shirts would have to have membership approval. Harris stated that it was never possible to put the recommendation regarding the production of T-shirts before the membership. She explained that the disruptive behavior of members of the appellants' political caucus made it impossible for membership meetings to get beyond old business.¹⁷

The International President's staff concluded that a hearing was unnecessary on the appeal and it prepared a report for the IEB on behalf of the President based on the record. Staff wrote that a charge which merely cites articles and sections of the Constitution without providing details to describe how they were violated lacks the specificity required by Article 31, §3(a), of the Constitution.¹⁸ Similarly, staff pointed out that the use of strong words such as "racketeering," and "extortion" does not remedy such lack of specificity.¹⁹ In addition, staff ruled that Larkin's charges failed to state a violation of the Constitution or conduct unbecoming a Union member. Staff remarked:

"It is not uncommon for UAW members to use the UAW logo on T-shirts, jackets and other campaign or caucus paraphernalia. It is not uncommon for members to sell such items. ..."²⁰

Staff held that the charges were improper under Article 31, §3 (a) and (c), of the International Constitution. The IEB adopted staff's report as its decision and the parties were notified on September 13, 2004. Mike Larkin has now appealed the IEB's decision to the Public Review Board (PRB).

ARGUMENT

A. Mike Larkin:

My charges were specific and showed that the appellants sold shirts for their own personal profit and not for caucus members or for a campaign. The IEB missed the basis of this charge entirely.

¹⁷ Record, p. 62

¹⁸ Record, p. 67

¹⁹ Record, p. 68.

²⁰ Record, p. 68

The shirts were made in Mexico at a nonunion shop and the UAW Local 148 insignia was printed on them. It was injurious to the membership of Local 148 to sell nonunion shirts made to appear as if they had been authorized by the Local. Once again, these shirts were not sold to benefit a caucus or a political campaign, but simply for profit. Micheal and Vickie Turner are both elected officers of Local 148. By selling these shirts for profit, they were using their offices for personal gain. This is the true nature of my charge against appellants.

B. International Union, UAW:

Displaying a T-shirt for sale with an allegedly unauthorized logo is not an activity that constitutes racketeering within the meaning of Article 10, §8, of the International Constitution. Furthermore, even if the logo was improperly used on the shirt, the procedure for addressing this problem is not a trial conducted pursuant to Article 31. Such a trial would conflict with the exclusive authority over the UAW mark vested in the International Union's Secretary-Treasurer by Article 13, §16, of the Constitution.²¹

Under Article 13, §16, the Secretary-Treasurer is authorized to prosecute the wrongful use or imitation of the UAW seal or name. If a local union believes that someone is using its logo improperly, it should first request that the person cease and desist from the improper use. If the use continues, the local union should refer the matter to the International Secretary-Treasurer for further action. If the person using the logo believes that the local union's charge is unjustified, he or she can appeal as provided in Article 33 of the Constitution.

Larkin's charges do not satisfy the specificity requirements of Article 33, §3(a), of the Constitution. His claims of racketeering and extortion are merely pejorative labels. He does not adequately describe the conduct that gave rise to these accusations. In any event, the charges are not appropriate for trial pursuant to Article 31. If appellant wishes to prevent the sale of T-shirts bearing the Local Union's logo, he should present the matter to the membership for appropriate action.

DISCUSSION

The Constitution provides a means in Article 13, §16, for challenging an alleged misuse of the UAW seal or name which preempts the use of charges presented by UAW members pursuant Article 31 for that purpose. The authority to challenge the use of the UAW's official seal is vested solely in the International Secretary-Treasurer. In

²¹ Article 13, §16, of the Constitution provides, in pertinent part, as follows:

"...The seal of the International Union shall be held by the International Secretary-Treasurer in trust for the use of the membership in their organization affairs; and s/he shall prosecute any and all proceedings proper to prevent the wrongful use or imitation of the seal or of the name 'International Union, United Automobile Aerospace and Agricultural Implement Workers of America (UAW)'...."

this case, it appears that the Micheal and Vickie Turner ceased their attempt to sell the T-shirts bearing the Local Union's logo when requested to do so. There was no need, therefore, to invoke the power of the International Secretary-Treasurer to prosecute the alleged wrongful use of the logo.

In any event, Larkin's allegation that Local 148 members Michael and Vickie Turner attempted to sell T-shirts bearing the Local Union's logo without authorization from the Local Union falls far short of providing a basis for his charges of racketeering and extortion, so these charges fail to satisfy the specificity requirements of Article 31, §3(a), of the International Constitution.

In his appeal to us from the IEB's rejection of his charges, Larkin argues that the Turners were using their elected offices for personal gain, and that this aspect of the charge was appropriate to be submitted to a Local trial committee. The charges that Larkin submitted to the Local 148 Recording Secretary on November 20, 2003, do not make this allegation however. The charges do assert that the Turners were selling the shirts for their own profit, but they do not indicate how this related to the Turners' elected offices. The charges do not even identify what offices the Turners held in the Local when they attempted to sell the shirts. The charges do not allege that anyone represented the shirts as having been authorized for sale by the Local Union or for the benefit of the Local Union. Therefore, the charges as presented do not meet the requirements of Article 31, §3(a), of the Constitution. Charges must be reviewed under Article 31, §3, solely on the basis of their specific content. *Bradley, et al. v. Local Union 235*, 5 PRB 174 (1987).

In addition, Larkin's claim that the Turners intended to profit from the sale of the shirts, absent any details concerning the relation of the proposed sale to their Union offices, fails to describe acts which would constitute conduct unbecoming a union member or a violation of the Constitution. This aspect of the charge is therefore improper under Article 31, §3(c), of the Constitution.

Finally, we agree with the IEB that the issue raised by Larkin's charges should have been presented to the membership for resolution, so that the charges fail under Article 31, §3(d), as well. Recording Secretary Harris' response to the Turners' appeal reveals that these charges arise out of the long-standing dispute between the two political caucuses at this Local Union. As we remarked in *Local Union 148 In the Matter of Gail Powell and Mick Flick v. Local Union 148*, 8 PRB 129, (1994), the deeply divided political climate at this Local Union has led to a disturbing pattern of abuse of Article 31 procedures. In that case, we pointed out that Article 31, §3, is designed to weed out the kind of ill-conceived, essentially political charges presented in this case. Charges are not an appropriate means to resolve political or policy disputes. We once again admonish the members of both caucuses of Local 148 to refrain from attempting to use the trial procedures described in Article 31 for political purposes. Political questions must be resolved by the membership at a membership meeting, despite the difficulties that may be presented by the strong disagreements among the members of this Local Union.

The decision of the IEB is affirmed.