

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

APPEAL OF:

BILL SCHULTZ, MEMBER,
LOCAL UNION 148, UAW
(Lakewood, California),
Appellant

-vs-

CASE NO. 1498

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.

UAW Local 148 President Bill Schultz argues that the charge he filed against Financial Secretary Micheal Turner satisfied the requirements of Article 31, §3, of the International Constitution.

FACTS

On January 22, 2002, Local 148 President Bill Schultz submitted a charge to the Local Union's Recording Secretary under Article 31, §1, of the Constitution stating that Micheal Turner, the Local's Financial Secretary, had breached his fiduciary responsibilities by providing Local Union mailing lists and members' Social Security numbers to Wilbert Sonnier.¹ Schultz explained that Micheal Turner is a member of the

¹ Schultz's charge states:

"On December 18, 2003, an appeal from Micheal Turner was read and voted upon by the UAW Local 148 Executive Board. The Local Union Executive Board voted down the appeal. In the appeal were exhibits containing personal information on myself, Clarice Offutt and Elizabeth Strauss that contained our names, addresses and Social Security numbers.

Alliance Caucus and that he employed Sonnier as his counsel in the pursuit of many charges and appeals.²

Schultz attached to his charge an appeal filed on behalf of Micheal Turner by Wil Sonnier with the Local 148 Executive Board. Lost time vouchers submitted by Schultz and other members of Local 148 are attached to the appeal as exhibits. The lost time vouchers do reveal the name, address and Social Security Number of the person requesting reimbursement.³ He also attached correspondence between the International Union and Micheal Turner concerning the membership status of Diana Rosales. This correspondence includes a computer printout containing the names and Social Security numbers of some members of UAW Local 148.⁴ Schultz asserted that these exhibits demonstrate that Turner gave personal information about Local 148 members to an outsider, Wil Sonnier.

Schultz argued that Turner's actions violated the first paragraph of the Business and Financial Activities of Union Officials section of the Ethical Practices Codes which prohibits the use of local union mailing lists for any purpose other than to promote the necessary legitimate functions of the Local.⁵ Schultz argued that Wil Sonnier was

Micheal Turner is the UAW Local 148 Financial Secretary and has breached his fiduciary responsibilities by allowing third party access to mailing lists and confidential information in the form of UAW Local 148 members' Social Security numbers.

Micheal Turner has continued to file numerous charges vilifying elected officials of UAW Local 148 and giving access of the Local Union mailing lists and personal information including Social Security numbers to his legal representative, Wil Sonnier." (Record, p. 1)

² Schultz's charge states:

"Joyce Mills Sonnier is the wife of Wil Sonnier. Joyce Mills Sonnier is the chairperson of the Alliance Caucus. Micheal Turner belongs to the Alliance Caucus and has used Wil Sonnier as his legal counsel in pursuit of the many charges and appeals he has filed. The members of the Alliance Caucus pay Wil Sonnier to represent them for legal counsel. As such, Micheal Turner has knowingly and willingly given access to Wil Sonnier the mailing lists, addresses and Social Security numbers of UAW Local 148 members without regard to the special fiduciary responsibilities of his elected position." (Record, p. 2)

³ Record, pp. 20-24.

⁴ Record, p. 46.

⁵ Paragraph 1 of the Business and Financial Activities of Union Officials section of the Ethical Practices Codes states as follows:

"The mailing lists of the Union are valuable assets. In order to protect the interests of our entire membership, Union officers and representatives shall not, under any circumstances, turn over a Union mailing list to an outsider for use in the promotion or sale of any goods or services that benefit an individual or a private concern. Mailing lists are to be used only to promote the necessary legitimate functions of the Local Union and for no other purpose. It is improper for any official or representative of either the International Union of Local Union to permit the use of any mailing list by any third party

deriving an economic benefit from the use of the Local Union's mailing list by accepting compensation as Turner's representative.⁶ In addition, Schultz charged that Turner's actions violated Article 37, §9, which prohibits local unions from making membership lists available to anyone except for official union business or to satisfy the requirements of law.⁷

The Local 148 Executive Board considered Schultz's charge at a meeting on January 22, 2004, and held that it satisfied the requirements of Article 31, §3, of the International Constitution. Local Recording Secretary Jacki Harris advised Turner of the Local Executive Board's action on January 28. Wilbert Sonnier filed an appeal from that action with the International Executive Board (IEB) on behalf of Micheal Turner on February 25.

In support of Turner's appeal, Sonnier argued that Schultz's charge should be disqualified under Article 31, §3(c), of the Constitution, because Article 33 of the Constitution specifically authorizes a member to turn over documents relating to an appeal to designated counsel. Sonnier cited Article 33, §4(a), and Article 33, §4(f), in support of this position.⁸ Sonnier argued that Schultz's charges were an attempt to retaliate against Turner for having filed an Article 33 appeal against him, Clarice Offutt, and Elizabeth Strauss.⁹

to promote the sale of furniture, appliances, automobiles, insurance, eyeglasses or any other item or to enable professionals to solicit the membership."

⁶ The pertinent part of Shultz's charge states:

"Wil Sonnier is not a member of UAW Local 148 and/or the UAW International Union and is benefiting from Micheal Turner as hired legal counsel. Wil Sonnier has no business with mailing lists, addresses and/or Social Security numbers of UAW Local 148 members." (Record, p. 2)

⁷ Article 37, §9, of the International Constitution provides as follows:

"A Local Union shall not make its membership list available to anyone except for the performance of official Union business or to satisfy the requirements of law."

⁸ Article 33, §4(a), provides:

"CONTENTS OF APPEAL. Any appeal should set forth the action or decision being appealed and should include all information available in support of the appeal. The appeal should be as specific and detailed as possible and must be signed by the member(s)."

Article 33, §4(f), provides:

"COUNSEL. Any party to an appeal before the International Executive Board, Convention Appeals Committee or Public Review Board, shall be permitted representation by counsel or other representative or her/his choice. Unless otherwise specified in this Constitution, counsel are not permitted before a Local Union, Amalgamated Local Union, or other subordinate body, except as provided in Article 31, Section 5. The party retaining counsel, or other representative, shall bear any cost of such representation."

⁹ Record, p. 70.

The President's staff determined that a hearing was unnecessary on Turner's appeal. Staff prepared a report for the IEB based on the record. Staff concluded that Schultz's charge failed under Article 31, §3(c), of the International Constitution in that the acts he described did not constitute a violation of the Constitution or conduct unbecoming a union member. Staff remarked that it may have been an error in judgment for Financial Secretary Turner to allow documents containing personal information about Local Union members to leave the Local Union hall, but it observed that Schultz's charge did not include an allegation that Turner's intent was to harm the members. Staff held that the allegation that Turner's act created the possibility of identity theft did not amount to an allegation of culpable intent.¹⁰

The IEB adopted staff's report as its decision and notified the parties on September 13, 2004. Schultz has now appealed the IEB's decision.

ARGUMENT

A. Bill Schultz, President, UAW Local Union 148:

Micheal Turner could have provided information relevant to his appeal to his representative without revealing Social Security numbers and home addresses. By failing to remove such personal information from the documents that he provided to Wilbert Sonnier, Turner jeopardized the interests of members of Local 148. He did this for no other purpose than to support his continual pursuit of charges against me and other members of this Local Union. There was obvious intent to injure or harm the interests of members of this Union.

These materials were sent to the Local Recording Secretary from Wil Sonnier's home address. This shows that Turner took official documents out of the Local Union hall. The members affected by Turner's actions can never be assured that their personal information is safe. I feel that there was clear intent to achieve the possibility of identity theft of myself and other members of this Local Union. This act alone has harmed the Union as a whole.

Since I was elected President of this Local Union over one hundred charges have been filed against me by Turner, his wife, and other members of the Alliance Caucus with the help of his representative, Wil Sonnier. The members of my Local are acutely uncomfortable knowing that our political opponents have our Social Security numbers and personal addresses. I filed this charge against Turner on behalf of the membership which trusts Local 148 to keep this type of information safe and secure.

¹⁰ Record, p. 78.

I disagree with the IEB's discussion entirely. Turner was not performing any official union business. He placed caucus politics before his elected responsibilities. I said all of this in my original charge, but the IEB chose to ignore it.

B. International Union, UAW:

Appellant Schultz speculates that Turner intended to injure the interests of members of Local 148 by using documents incidentally containing their home addresses and Social Security numbers. The speculation that an act could possibly cause injury is not sufficient to satisfy Article 31, §3(c), of the Constitution. The exhibits to Schultz's charge demonstrate that the documents were provided to show lost time amounts charged and not the Social Security numbers or home addresses of the members involved.

A large portion of Schultz's charge concerns allegations of violations of the Ethical Practices Codes. It is doubtful that the Code's prohibition on the sale of mailing lists is relevant under these facts. In any event, charges of Ethical Practices Codes violations should be addressed under Article 32 of the Constitution, and not Article 31.

Schultz's charge should be dismissed as being improper under Article 31, §3(c), of the Constitution.

C. Wilbert D. Sonnier for Micheal Turner:

Schultz's argument on appeal goes to the merits of his charge, rather than its propriety under Article 31 of the Constitution. His charge clearly does not satisfy the requirements of Article 31, §3(c), of the Constitution.

The PRB has consistently ruled that local union officials may not be charged under Article 31 for actions taken in discharge of their official duties unless it is alleged that the actions were taken for the express purpose of injuring the interests of the charging party. This general rule was established in *Comley v. Noble*, 1 PRB 347 (1965). Thus, even if it were improper for Turner to have revealed Schultz's and other members' addresses and Social Security numbers in documents submitted in support of Article 31 charges, Schultz has not alleged that Turner acted with a culpable intent to injure the members or a disregard of their interests so flagrant as to be considered willful and wanton.

Furthermore, it was not a violation of the Constitution for Turner to provide the documents in question to his lay representative. The Constitution specifically allows a member to turn over documents to a third party when appealing to the IEB or the PRB. As Financial Secretary-Treasurer, Turner was acting well within his Constitutional rights in appealing what he considered to be financial improprieties to the IEB. In order to establish his claims, Turner had to attach the vouchers to his appeal. Article 33, §4(a), requires that an appeal include all information available in support of it. Article 33, §4(f), clearly permits Turner to have a representative of his choice present his appeal to the

IEB. It is hard to comprehend how documents that were attached to the original appeal can now be deemed confidential when Turner's representative is appealing to the IEB. Simply put, Schultz's charges do not state a violation of the Constitution or conduct unbecoming a member of the Union. Schultz's retaliatory charges are nothing more than an effort to deflect attention from Turner's accusations against him, Offutt and Strauss.

DISCUSSION

The exhibits attached to Turner's appeals are not mailing lists within the meaning of Article 37, §9, of the International Constitution or Paragraph 1 of the Business and Financial Activities of Union Officials section of the Ethical Practices Codes. Schultz's charge that Turner gave documents to his representative that contained personal information such as Social Security numbers clearly does not describe conduct that violates the Constitution or amount to conduct unbecoming a union member. Records presented to us in support of Article 33 appeals frequently contain documents which reveal members' names, addresses and Social Security numbers. Only in the past few years have we observed any attempt by Local Unions to conceal such information, and these efforts are far from consistent. The charge is therefore improper under Article 31, §3(c), of the Constitution and inappropriate for submission to a trial.

This is not to say that President Schultz has raised a trivial issue. The potential for fraudulent misuse of personal information has always existed. In recent years, however, an increased reliance on electronic transactions to conduct business has brought about an increased public awareness of the dangers of giving strangers access to personal identity numbers. Yet, until recently, Social Security numbers have been used in diverse kinds of identification from health insurance cards to drivers' licenses. Employment records almost always include the employee's Social Security number, and may include other personal information as well, such as the employee's address, or date of birth. 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. Perhaps the International Union should consider publishing an administrative letter to advise local unions on steps that can be taken for this purpose.

In this particular situation, however, President Schultz has chosen to raise a legitimate issue of serious concern to the Local Union membership by means of a charge presented under Article 31 of the Constitution. As we stated in *Crabbe v. Local 148 Executive Board*, PRB Case No. 1452, (2003), and in *Larkin v. International Executive Board*, PRB Case No. 1497, which we considered simultaneously with this appeal, Article 31 is not the appropriate vehicle to resolve policy issues. We strongly urge the membership of Local 148 to try to rise above their caucus affiliations and begin to conduct the business of the Local through reasoned debates of the issues at membership meetings, rather than by means of charges and counter-charges presented under Article 31 of the Constitution.

The decision of the IEB is affirmed.

