

May 1, 2008

Via Email and UPS Overnight

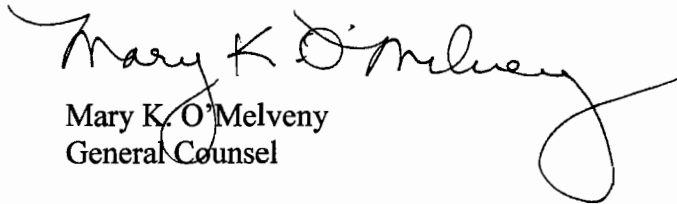
Sidney H. Lehmann, Esquire
Szaferman, Lakind, Blumstein,
Blader & Lehmann, PC
101 Grovers Mill Road, Suite 104
Lawrenceville, New Jersey 08648

Dear Mr. Lehmann:

Attached you will find a copy of the CWA Executive Board's directive to your clients, Local 1034 and its officers, to produce various specified documents relating to the current charges of misappropriation of Local funds. Once you have consulted with your clients, I hope that we can discuss arrangements for the production of these records within the very near future. A copy of the Board's directive is also being sent to counsel for Local 1034 President Carla Katz. I am transmitting copies to President Katz and the Local officers via fax and overnight mail.

Your April 25, 2008 letter continues to make unfounded accusations against Vice President Shelton. I reiterate that the CWA Executive Board's current directive, as well as its prior actions involving your clients, have all been taken based on the provisions of the CWA Constitution and unbiased consideration of the relevant facts.

Sincerely,



Mary K. O'Melveny
General Counsel

MKOM/kpm
Attachment

cc: Paul J. Fishman, Esq.
Carla Katz, President Local 1034
Local 1034 Executive Board

Georgia Harrison - EBP-10453 -- Motion Adopted by Majority Vote

From: Yvette Taylor
To: Executive Board
Date: 05/01/2008 9:39 AM
Subject: EBP-10453 -- Motion Adopted by Majority Vote

This confirms the Executive Board by majority vote adopted the below motion sent out in a poll on Wednesday, April 30, 2008:

MOTION: Move that Local 1034 and its officers be directed to produce for inspection at the National Union's offices in Avenel, New Jersey, on or before May 9, 2008, the books and records listed in Attachment 2.

[EBP-10453]

Thank you.

-yvette

Communications
Workers of America
AFL-CIO, CLC

501 Third Street, N.W.
Washington, D.C. 20001-2797
202/434-1110 Fax: 202/434-1139

Larry Cohen
President



April 30, 2008

To: CWA Executive Board

Subject: Executive Board Poll – Direction to Local 1034 to
Produce Financial and Related Records for
Inspection by the National Union

Dear Colleagues:

On October 30, 2007, and on January 24 and April 8, 2008, charges were filed by two members of the Local 1034 Executive Board, Jonathan Berg and Linda Kukor, and by Local 1034 Shop Steward Dan Antonellis against Local 1034 President Carla Katz, Treasurer Robert Mueller and certain other members of the Local 1034 Executive Board alleging violations of Article XIX of the CWA Constitution and the Local's Bylaws.

These allegations included accusations of that Local funds and resources were being misappropriated by: (a) making disbursements for lost time wages, lodging, meals, transportation and registration fees to approximately 15 persons attending the 2008 District One Conference held on March 4 and 5, 2008, in Atlantic City, New Jersey, and to 35 persons attending the 2008 Legislative Conference held on April 6, 7, 8 and 9 in Washington, DC, for the purpose of promoting the candidacy of Katz for District One Vice President; (b) paying a full-time salary and benefits to the Local President between September 2004 and the present, even though she was attending Seton Hall School of Law and working only part-time for the Local; (c) permitting the Local President to use the Local's credit card for dinners, bar bills and entertainment without appropriate authorization or oversight and by excessive use of Local funds for dinners, alcohol, hotels, transportation, and personal entertainment; (d) permitting a rubber stamp bearing the signature of Local Treasurer Robert Mueller to be used on checks issued by the Local, rather than having the Treasurer actually co-sign each check, in violation of Local Bylaws requiring that two signatures be used on all checks drawn on Local bank accounts; and, (e) allowing the Local President to make hundreds of thousands of dollars of political donations, including a contribution of \$20,800 to Cory Booker, a candidate for Mayor of Newark, with whom the Local President acknowledges having had a close personal relationship, without

appropriate review or oversight by the Local's Legislative and Political Action Committee.

As set forth more fully in Attachment 1, the most recent charges involving misappropriation of Local funds to support and promote the candidacy of President Katz for District 1 Vice President, if proven to be true, raise serious issues involving compliance with Sections 481(g) and 501 of the Labor Management Reporting and Disclosure Act (LMRDA), in addition to violations of the CWA Constitution and the Local's Bylaws.

On March 14 and April 11, 2008, the Executive Board passed motions appointing District 1 Upstate New York/New England Director Dave Palmer to prosecute these various charges pursuant to Article XX, Sections 2(a) and 3(b)(2) of the CWA Constitution. Although action on certain of these charges had previously been deferred pending investigation by an independent fact-finder, Daniel Clifton, Clifton was unable to fully complete his inquiry because he was unable to obtain certain relevant information he had requested. Clifton's inquiry did not include the serious new charges involving potential LMRDA violations and those new charges were referred directly to Prosecutor Palmer by the CWA Executive Board. Although Palmer promptly commenced his investigation into these charges, he has reported that he has been unable to obtain the cooperation of the Local President and other Local officers.

Prosecutor Palmer requested the production of various documents and information relating to these misappropriation charges. These requested documents are listed in Attachment 2. CWA's General Counsel has received letters from counsel for President Katz and counsel for Local 1034 challenging Prosecutor Palmer's authority and his appointment because he is an employee in District 1 and supports the candidacy of Vice President Shelton and, in their view, cannot conduct an unbiased investigation into these allegations. An April 24, 2008, memorandum sent by Sidney Lehmann, the attorney representing Local 1034, to Local officers and staff members is attached for your review (Attachment 3).

As discussed more fully in Attachment 4, the CWA Constitution imposes on every Local an obligation to use and administer its funds for the benefit of Local members as well as the obligation to maintain adequate files and records, to produce Local records upon request of the CWA Executive Board in appropriate circumstances and to abide by decisions of the Executive Board and the CWA Constitution. Given the seriousness of the charges, the National Union has a legal and a Constitutional obligation to ensure that the current charges of misappropriation of funds are fully investigated and resolved without further delay. In addition, the National Union has a separate legal and constitutional

obligation to ensure that members' monies are being used for legally and constitutionally appropriate purposes.

Therefore, I offer the following Motion:

MOTION: Move that Local 1034 and its officers be directed to produce for inspection at the National Union's offices in Avenel, New Jersey, on or before May 9, 2008, the books and records listed in Attachment 2.

Please cast your vote.

Sincerely,



Larry Cohen
President

Attachments

EBP - 10453

Attachment 1

LMRDA Provisions Relating to Local 1034 Misappropriation Charges

Charges of misappropriation of Local 1034 monies and other resources to promote the candidacy of the Local President for District One Vice President raise serious issues under the LMRDA, as described below:

- a. Section 481(g) of the LMRDA prohibits the use of dues money to promote the candidacy of any person running for a union office. Courts have strictly interpreted this section of the LMRDA.
- b. Section 501 of the LMRDA states that it is the duty of all officers of a union to hold the union's property and money solely for the benefit of the organization and its members. This section also states that when any officer is alleged to have violated his/her fiduciary duties and the labor organization or its governing board fail to sue or recover damages or secure an accounting within a reasonable time of being requested to do so, a member may sue the officer in district court. Finally, this section also states that any person who unlawfully converts the moneys of the union to his own use shall be fined not more than \$10,000 or imprisoned for not more than five years, or both.
- c. Courts have held that violations of Section 481(g) may also violate Section 501. United Mine Workers v. Boyle, 1975 WL 1183 (D.D.C. 1975).

Attachment 2

Documents Relating to Charges of Misappropriation of Local Funds

1. With respect to all Local 1034 members, staff, officers or spouses of members, staff or officers attending the 2008 District Conference, copies of (a) records reflecting the names of such persons, the dates these persons attended the District Conference, (b) records reflecting all lost time wages paid to such persons, (c) records reflecting all paid union time used by such persons, (d) records reflecting all payments/disbursements for travel to and from the District Conference, including any reimbursements to such persons for travel, (e) records reflecting all payments/disbursements for lodging of such persons at the District Conference, (f) records reflecting all payments/disbursements to pay for meals for persons attending the District Conference, and (g) records reflecting all payments for registration fees for persons attending the District Conference;
2. With respect to all Local 1034 members, staff, officers or spouses of members, staff or officers attending the 2008 Legislative Conference, copies of (a) records reflecting the names of such persons, the dates these persons attended the Legislative Conference, (b) records reflecting all lost time wages paid to such persons by the local, (c) records reflecting all paid union time used by such persons, (d) records reflecting all payments/disbursements for travel to and from the Legislative Conference, including any reimbursements to such persons for travel, (e) records reflecting all payments/disbursements for lodging of such persons at the Legislative Conference, (f) records reflecting all payments/disbursements to pay for meals for persons attending the Legislative Conference, and (g) records reflecting all payments for registration fees for persons attending the Legislative Conference.
3. For the period October 1, 2004, to present, credit card statements paid for by the Local, including any credit cards in the names of officers and employees of the Local;

4. For the period October 1, 2004, to present, copies of vouchers and expense records submitted by Katz to the Local for reimbursement;
5. For the period October 1, 2004, to present, copies of cancelled checks drawn on the Local's accounts;
6. For the period October 1, 2004, to present, check ledgers;
7. For the period October 1, 2004 to present, copies of Local records reflecting contributions to candidates running for local, state or federal office, including copies of all cancelled checks and check ledgers. (Reports available online, such as the ELEC and LM-2 reports, need not be provided.)
8. For the period October 1, 2004 to present, copies of agendas and minutes of Local Executive Board meetings approving political contributions;
9. For the period October 1, 2004, to present, copies of records reflecting expenses paid for or reimbursed by the Local in connection with meals, sporting events, ceremonies, fundraisers, banquets, etc., attended by the Local President and/or other officers of the Local and one or more Federal, State or local government elected officials and/or candidates for office, including all cancelled checks and check ledgers.
10. A copy of Katz's transcript from Seton Hall University School of Law (with grades redacted);
11. Copies of all documents reflecting the schedule of classes taken by Katz since her enrollment at the Seton Hall School of Law in September 2004, including, but not limited to, (a) calendars maintained by Katz and/or by an employee of the Local reflecting the dates and times of the classes Katz attended and (b) any time records maintained by Katz and/or by an employee of the Local reflecting the dates and times of the classes Katz attended;
12. Copies of documents reflecting all time devoted by Katz to her law school studies, including time spent in class, studying and traveling to and from the law school; and
13. Copies of documents reflecting all time devoted by Katz to her duties as full-time President of Local 1034, including all calendars maintained by Katz and/or by an employee of the

Local and all time records maintained by Katz and/or by an employee of the Local.

Attachment 3

**SZAFERMAN, LAKIND, BLUMSTEIN,
BLADER & LEHMANN, P.C.**

OFFICE MEMORANDUM

DATED: April 24, 2008

TO: MEMBERS OF THE EXECUTIVE BOARD OF LOCAL 1034
AND LOCAL 1034 STAFF MEMBERS

FROM: SIDNEY H. LEHMANN

RE: COMMUNICATIONS WITH DAVID PALMER

As you are aware, three (3) members of the Local (including two Executive Board members) have filed charges with the National against Carla Katz and nine (9) members of the Local's Executive Board. These charges were originally filed in October 2007, and have been the subject of a "fact-finding" by an attorney appointed by the National, Dan Clifton, Esq.. A number of you have been interviewed by Mr. Clifton. To the best of our knowledge, no final report has been issued by Mr. Clifton.

Recently, following Carla's announcement of her intention to run against Chris Shelton for the District I Vice President. Mr. Clifton's fact-finding was apparently halted by the National Executive Board, and David Palmer, the District I Upstate/New England Director was appointed as the Prosecutor in connection with the charges filed against Carla and the nine members of Local 1034's Executive Board. The timing of this significant change in the processing

of these charges, and the individual appointed as the "Prosecutor," raises many obvious issues with respect to objectivity, motivation and retaliation. I, along with, an attorney retained by Carla to represent her, have protested Mr. Palmer's appointment, and his "investigation," including his lengthy document requests.

I have written to Mr. Palmer and to Mary O'Melveny, General Counsel for CWA raising these objections and requesting that until such time as we can resolve our concerns, it is not appropriate for Mr. Palmer to be conducting interviews and requesting documents from officers, staff and members of Local 1034 (perhaps with the exception to the charging parties). I have also requested that any communications with officers, staff, and members of the Local (again, with the exception of the charging parties) by Mr. Palmer with respect to these matters be directed to me as the attorney representing Local 1034 on these issues. I would expect all officers and staff of the Local to tell Mr. Palmer, if he contacts you, to request that he contact me instead.

Attachment 4

CWA Constitutional Provisions Relating to Local 1034 Charges

The CWA Constitution contains the following provisions applicable to the misappropriation charges filed by Local 1034 Executive Board members Berg and Kukor and Shop Steward Dan Antonellis and the document request issued by Prosecutor Dave Palmer:

- a. Article XIX of the CWA Constitution provides that members may be fined, suspended or expelled for "misappropriating money or property of the Union or Local."
- b. Article XIII, Section 11 of the CWA Constitution provides that "all assets of a Local shall be considered a trust fund of the Union to be held and administered by the Local for the members of the Union belonging to the Local as long as the Local remains a chartered Local of the Union."
- c. Article IX, Section 4(e) of the CWA Constitution provides that the Executive Board shall have the authority to "cause an inspection to be made of the financial records of any Local and order an independent audit of the books of any Local when convinced that such an audit is necessary and proper to protect the membership of the particular Local and the interest of the Union and to publish to members affected the results of such audit; the cost of such audit to be borne by the Union."
- d. Article XIII, Section 5 of the CWA Constitution provides that causes for the revocation or suspension of a charter include "refusing or neglecting to conform to or abide by any directions or decisions of the Convention, Executive Board or referendum vote of the membership" and "refusing or neglecting to conform to this Constitution or the policies of the Union as set forth by the Convention."
- e. Article XIII, Section 9(c) obligates Locals to "abide by the Constitution, the decisions of the Convention [and] the Executive Board of the Union...."