

COUNCIL 82
RECEIVED
 AUG 13 1984
AFSCME AFL-CIO

STATE OF NEW YORK
 PUBLIC EMPLOYMENT RELATIONS BOARD

----- X

In the Matter of
 STATE OF NEW YORK; and THE UNION OF FEDERATED
 CORRECTION OFFICERS,

Respondents,

- and -

NEW YORK STATE INSPECTION, SECURITY AND LAW
 ENFORCEMENT EMPLOYEES, DISTRICT COUNCIL 82,
 AMERICAN FEDERATION OF STATE, COUNTY AND MU-
 NICIPAL EMPLOYEES, AFL-CIO,

Charging Party.

TUFCO'S POST-
 HEARING MEMO-
 RANDUM OF LAW

PERB
 Case No.
 U-7375

----- X

In the Matter of
 STATE OF NEW YORK, DEPARTMENT OF CORRECTION-
 AL SERVICES and OFFICE OF EMPLOYEE RELATIONS,
 Respondents,

- and -

THE UNION OF FEDERATED CORRECTION OFFICERS,
 Charging Party,

PERB
 Case No.
 U-7385

- and -

NEW YORK STATE INSPECTION, SECURITY AND LAW
 ENFORCEMENT EMPLOYEES, DISTRICT COUNCIL 82,
 AMERICAN FEDERATION OF STATE, COUNTY AND MU-
 NICIPAL EMPLOYEES, AFL-CIO,

Intervenor.

----- X

In the Matter of
 STATE OF NEW YORK, DEPARTMENT OF CORRECTION-
 AL SERVICES and OFFICE OF EMPLOYEE RELATIONS;
 NEW YORK STATE INSPECTION, SECURITY AND LAW
 ENFORCEMENT EMPLOYEES, DISTRICT COUNCIL 82,
 AMERICAN FEDERATION OF STATE, COUNTY AND MU-
 NICIPAL EMPLOYEES, AFL-CIO; and LOCAL 1255 OF
 THE NEW YORK STATE INSPECTION, SECURITY AND LAW
 ENFORCEMENT EMPLOYEES, DISTRICT COUNCIL 82,
 AMERICAN FEDERATION OF STATE, COUNTY AND MU-
 NICIPAL EMPLOYEES, AFL-CIO,

Respondents,

PERB
 Case No.
 U-7406

(continued)

8-13-84
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(continued)

- and -

THE UNION OF FEDERATED CORRECTION OFFICERS,
Charging Party.

----- X

Submitted by:

JEFFREY H. BROZYNA, ESQ.
Attorney for the Union of
Federated Correction Offi-
cers and the United Fed-
eration of Correction
Officers, Inc.

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Tel.: (518) 465-3352

STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD

In the Matter of

STATE OF NEW YORK; and THE UNION OF FEDERATED CORRECTION OFFICERS,

Respondents,

- and -

NEW YORK STATE INSPECTION, SECURITY AND LAW ENFORCEMENT EMPLOYEES,
DISTRICT COUNCIL 82, AMERICAN FEDERATION OF STATE, COUNTY AND MU-
NICIPAL EMPLOYEES, AFL-CIO,

Charging Party.

In the Matter of

STATE OF NEW YORK, DEPARTMENT OF CORRECTIONAL SERVICES and OFFICE
OF EMPLOYEE RELATIONS,

Respondents,

- and -

THE UNION OF FEDERATED CORRECTION OFFICERS,

Charging Party,

- and -

NEW YORK STATE INSPECTION, SECURITY AND LAW ENFORCEMENT EMPLOYEES,
DISTRICT COUNCIL 82, AMERICAN FEDERATION OF STATE, COUNTY AND MU-
NICIPAL EMPLOYEES, AFL-CIO,

Intervenor.

In the Matter of

STATE OF NEW YORK, DEPARTMENT OF CORRECTIONAL SERVICES and OFFICE
OF EMPLOYEE RELATIONS; NEW YORK STATE INSPECTION, SECURITY AND LAW
ENFORCEMENT EMPLOYEES, DISTRICT COUNCIL 82, AMERICAN FEDERATION OF
STATE, COUNTY AND MUNICIPAL EMPLOYEES, AFL-CIO; and LOCAL 1255 OF
THE NEW YORK STATE INSPECTION, SECURITY AND LAW ENFORCEMENT
EMPLOYEES, DISTRICT COUNCIL 82, AMERICAN FEDERATION OF STATE,
COUNTY AND MUNICIPAL EMPLOYEES, AFL-CIO,

Respondents,

- and -

THE UNION OF FEDERATED CORRECTION OFFICERS,

Charging Party.

PRELIMINARY STATEMENT

This memorandum of law is submitted by The Union of Federated

Correction Officers ("TUFCO") and The United Federation of Correction Officers, Inc. ("TUFCO, Inc.") pursuant to leave of the administrative law judge, given at the close of the consolidated hearings in the above-entitled cases (PERB Case Nos. U-7375, -7385 and -7406).

Case No. U-7375. The charge in this case was filed by the New York State Inspection, Security and Law Enforcement Employees, District Council 82, American Federation of State, County and Municipal Employees, AFL-CIO ("Council 82") on March 15, 1984. The charge alleged essentially that the respondent State of New York ("State") violated Civil Service (Taylor) Law §209-a.1, paragraphs (a) and (d), by agreeing to allow TUFCO and TUFCO, Inc., to solicit authorization cards on State property during the 6 month period for card-signing established by PERB Rule 201.4(b), because the State's own campaign "guidelines" purportedly allow only 3 months for such activities where there is an incumbent union. The charge also alleges that TUFCO and TUFCO, Inc., violated Taylor Law §209-a.2(a) by so agreeing and acting.

Case No. U-7385. This charge was filed by TUFCO in March, 1984. It alleges that the State violated Taylor Law §209-a.1(a) by seizing and destroying TUFCO authorization cards and by interrogating certain TUFCO supporters, at the Fishkill Correctional Facility. It also alleges that the OER "Guidelines," upon which the State now relies for justification of its actions, are too vague, and are preempted by PERB Rule 201.4(b) to the extent that the Guidelines purport to allow card solicitation to unseat incumbent unions for only 3, not 6 months.

Case No. U-7406. The charge in this case was filed by TUFCO on April 3, 1984. It asserts that the Council 82 and Local 1255 of Council 82 violated Taylor Law §209-a.2(b) by attempting to and/or actually causing the aforementioned card seizure. It also alleges that the State violated §209-a.1(a) by allowing Council 82 to campaign against TUFCO at Fishkill while denying similar privileges to TUFCO.

This memorandum of law is submitted in opposition to Council 82's charge in Case No. U-7375, and in support of TUFCO's charges in Case Nos. U-7385 and -7406.

STATEMENT OF FACTS

It is undisputed that the respondent State's supervisor, Thorne, seized 30 signed TUFCO authorization cards, destroyed 13 additional signed cards, and confiscated 41 more unsigned cards from four TUFCO employee-organizers (Tr., pp. 21, 109). It is also undisputed that these cards were signed, for the most part, while the said organizers were lawfully on State premises, by employees who were generally on duty, or coming on duty. All the said TUFCO organizers were, however, off duty at the time (see, e.g., Tr. p. 128). Although they entered legally, the State says they should not have been soliciting because OER Guidelines prevented it.

Thorne could have had no question as to the legality of the organizers' presence at Fishkill because it was he who gave them permission to enter (he later claimed that he erred in allowing them to enter, believing that they were there on Council 82 business, not TUFCO business) (Tr., pp. 9-10, 18).

Thorne later changed his mind and revoked his permission to enter after Edwards, the President of Council 82's Fishkill Local, demanded that he do so (Tr., pp. 22, et seq.). Thorne never claimed reliance on the OER Campaign Guidelines, only the union contract, as justification for his actions (Tr., p. 23). There is no evidence that Thorne acted on instructions from any of his commanding officers (Tr., p. 22). Thorne never personally saw any TUFCO cards solicited or signed on State property (Tr., p. 20), but relied instead on what Edwards had told him (Tr., p. 19).

No one has claimed, and there is no evidence, that the said

solicitation by TUF^{CO} supporters was interfering in any way with the operation of the facility. Nevertheless, the solicitors were subsequently called to the office of the prison Superintendent, Reid, and threatened with discipline, as well as interrogated about their union, something which the State didn't do when it subsequently learned that Council 82 was also violating the purported guidelines.

Council 82 now charges in Case No. U-7375 that, by "allowing" the aforementioned TUF^{CO} supporters to do what they did, inter alia, both the State and TUF^{CO} have committed improper practices. TUF^{CO} charges in Case No. U-7385 that the State's seizure and destruction of its cards, and subsequent interrogation of its supporters, were far more drastic than was necessary to enforce the OER Campaign Guidelines, and was therefore an improper practice. TUF^{CO} charges in Case No. U-7406 that, during the same period of time, the State allowed Council 82 to post anti-TUF^{CO} campaign materials on its bulletin boards, and that Council 82 and its Fishkill local improperly caused the State's drastic reaction to TUF^{CO}'s alleged solicitation.

POINT I

THE STATE'S SEIZURE AND DESTRUCTION OF TUF
CO AUTHORIZATION CARDS AT FISHKILL IS NOT JUSTIFIABLE
ON THE GROUND THAT IT WAS NECESSARY TO ENFORCE
OER CAMPAIGN GUIDELINES, AND THEREFORE VIOLATED
CIVIL SERVICE LAW §209-a.1(a), EVEN ASSUMING
ARGUENDO THAT SAID GUIDELINES ARE VALID

The only claim made herein is that the Fishkill solicitation was a technical violation of the OER Campaign guidelines. The card solicitors were clearly on the premises lawfully, having been allowed to enter by Thorne himself, albeit upon mutually mistaken premises. There is no claim that the solicitation interfered in any significant way with the facility's operation. And there is no evidence that the solicitors had ever violated the alleged guideline before. In light of this, it was unreasonable for Thorne to seize and/or destroy the TUF CO cards. He could simply have informed the organizers that they had to leave the premises.

The State or Council 82 may argue that, inasmuch as the solicitation was in violation of the OER Guidelines, the State could have taken any action it had wanted to against TUF CO. Such an argument, if made, should be rejected. The well established need for confidentiality of authorization cards mandates that any action taken by the State to punish alleged violations of campaign guidelines be closely tailored to meet the guidelines' objectives, without unduly infringing upon TUF CO supporters' Taylor Law and Constitutional rights to keep their support of the rival association private (cf. Board of Educ., Grand Island v. Helsby, 37 AD2d 493 [4th Dep't, 1971], aff'd, 32 NY2d 660 [1973], stating

at 37 AD2d 497 that "[t]he legislatively declared right of public employees to participate in any employee organization ... is consonant with the ... right[s] of freedom of speech and association").

In N.L.R.B. v. Essex Wire Corp. (245 F.2d 589 [9th Cir., 1957]), the court upheld the N.L.R.B.'s finding of a ULP of interference where an employer's foremen merely demanded, but was talked out of seizing, authorization cards which an employee organizer had obtained in violation of an admittedly valid no-solicitation rule. The court explained that:

"[The supervisor's] possession of such cards, even for a temporary period, would enable management to inform itself as to the progress being made in campaigning for a then-unrepresented union. It would also make it possible for management to exercise surveillance over the union affiliations and activities of individual employees. Whether the company would be disposed to make such use of the cards is beside the point. As long as the opportunity is present, employees may have a real fear that this would be done. Such fear could well influence their inclination to execute such cards."

Similar conclusions were reached in Great Chinese American Sewing Co. v. N.L.R.B. (578 F.2d 251, at p. 254, col. 2 [9th Cir., 1978]), and in N.L.R.B. v. Elias Bros. Big Boy, Inc. (325 F.2d 360 [6th Cir., 1963]). In the Elias Bros. case, a seizure of union organizational literature was found to be a ULP even though union organizers had acted "irresponsibly" in leaving the literature all over tables at a fast food restaurant.

Although the Essex Wire, Great Chinese and Elias Bros. cases were decided under the N.L.R.A., rather than the Taylor Law, State employees' rights under the latter law are similar to those conferred by the former (see, e.g., Matter of State of New York, 11

PERB ¶4053 [1978], at p. 4086, col 1, noting that the "[c]onfidentiality of the showing of interest is a longstanding policy in public and private sectors."). Thus, the result should be the same under the Taylor Law.

POINT II

REID'S INTERROGATION OF THE FOUR TUFECO ORGANIZERS
WENT FURTHER INTO TUFECO'S AFFAIRS THAN WAS NECESSARY
TO ACCOMPLISH ANY PROPER STATE PURPOSES

Although Fishkill Superintendent Reid may have had a legitimate need to call the four TUFECO organizers into his office to inform them of the OER Campaign Guidelines, that is not what he did. Indeed, Reid's testimony reflects his total ignorance of those guidelines. Thus, for example, Reid testified that he told the organizers that they would never be allowed to distribute TUFECO cards or literature on State property "until such time as OER and PERB set the time and place when that could be done." (Tr., p. 155). Although he later claimed that he didn't mean that they could not do so off prison property (Id.), he never denied his claimed statements that on-premises solicitation was prohibited indefinitely. At any rate, TUFECO supporter Stephens was clearly left with such an impression (Tr., p. 111), as was Van Houten (Tr., p. 133). Even under the OER Guidelines, rival unions' on-premises solicitation is permitted within a definite period, i.e., after May 1. Thus, it is established that Reid misrepresented the State's no-solicitation rules to the TUFECO organizers.

The TUFECO organizers' claims that they were threatened with disciplinary action over their solicitation activities (Tr., pp. 110, 124) were admitted by Reid (Tr., p. 154). In addition, Reid admitted to asking questions about TUFECO, including a question about whether it was chartered (Tr., pp. 110, 154). It is undenied

that he asked TUFCO solicitor McKinney "why [he] would do such a thing, because [McKinney] was a [Council 82] steward at [the] Clinton Correctional [Facility]." (Tr., p. 124).

Clearly, Reid had no legitimate purpose to ask whether TUFCO had a "charter" -- did he mean from Council 82? And it was clearly improper for him to imply to McKinney that he was a "traitor" to Council 82. Finally, the clear threat of discipline for future on-premises solicitation, even after OER's May 1 starting date, was improper.

Accordingly, the State has interfered with TUFCO supporters' rights under §§202 and 209-a.1(a) of the Taylor Law (cf. Bourne v. N.L.R.B., 332 F.2d 47 [2d Cir., 1964], decided under the N.L.R.A.).

POINT III

THE OER CAMPAIGN GUIDELINES ARE IMPERMISSIBLY VAGUE,
AND ARE PREEMPTED BY PERB RULE 201.4(b) TO THE EXTENT
THAT THEY PURPORT TO RESTRICT CARD SOLICITATION TO
ONLY 3 MONTHS WHERE THERE IS AN INCUMBENT UNION

The OER guideline which allegedly prohibits on-premises solicitation and other campaigning by employees who support rival unions, before 90 days from the expiration of the period of unchallenged representation status under Taylor Law §208, is impermissibly vague. The guideline (OER Guideline 12.3, Ex. to State's Answer), it should be noted, states obliquely that the "campaign period shall begin no earlier than 90 days prior to" said date, whatever that means. The guideline also seems to prohibit off-premises solicitation during such period. Even though the guideline might be susceptible to a valid interpretation, its ambiguity alone justifies a finding of its invalidity (cf. Fasco Industries, Inc. v. N.L.R.B., 412 F.2d 589 [4th Cir., 1969], decided under the N.L.R.A.).

The rule also unfairly discriminates against unions which are attempting the more difficult task of unseating incumbent unions, by limiting their campaign periods to 90 days, whereas under PERB Rule 201.4(b), unions are allowed 6 months to solicit authorization cards. The State has advanced no justification for this discrimination in this proceeding. Accordingly, OER Guideline 12.3 is invalid, to the extent that it purports to limit rival unions' campaign periods to 90 days.

It also appears that the State interprets Guideline 12.3 as prohibiting solicitation in parking lots and other public

places at correctional facilities (Tr., p. 102-103). This, too, is improper (cf. Campbell Chain Co., 237 N.L.R.B. 420 [1978]). And it appears that the guideline was only enforced against Council 82 at Fishkill after this proceeding was commenced. Even then, it does not appear that anyone from Council 82 was threatened with discipline, as were the TUFCO campaigners. Thus, the guideline is invalid as interpreted (cf. Southern Moldings, Inc., 255 N.L.R.B. 859 [1981]).

POINT IV

THE UNITED FEDERATION OF CORRECTION
OFFICERS IS NOT AN "EMPLOYEE ORGANIZATION"
WITHIN THE MEANING OF THE TAYLOR LAW AND
THEREFORE CANNOT COMMIT IMPROPER PRACTICES

The charge in Case No. U-7375 alleges that improper practice was committed either by TUFCO or by TUFCO, Inc. While we respectfully deny any wrongdoing by either organization, it is clear that TUFCO, Inc., cannot be guilty of an improper practice for another reason. That is, only an entity which is an "employee organization" within the meaning of the Taylor Law can violate §209-a.2. But TUFCO, Inc.'s charter (TUFCO Ex. 1) makes it clear that the corporation has no power to act as an "employee organization," and the evidence shows that it has never so acted. Accordingly, only TUFCO, and not TUFCO, Inc., is an "employee organization" within the meaning of the Taylor Law.

POINT V

THE CHARGE IN CASE NO. U-7375 SHOULD BE
DISMISSED ON THE LAW AND ON THE FACTS

The charge in Case no. U-7375 alleges that the State has somehow conspired with TUFCO to allow TUFCO to organize in violation of OER Guideline 12.3. But if anything, the evidence shows that the State has gone too far the other way, to squelch legitimate and orderly TUFCO card solicitation. It is important to note that, in every instance where Council 82 complained about improper TUFCO solicitation, State officials put a quick stop to it (see, e.g., Tr. pp. 22, 51 and 103).

Moreover, where TUFCO officers gave instructions to their organizers, they told them to stay out of the facilities until May 1 (Tr., pp. 75, 99). It appears that a couple of TUFCO supporters, in the early part of the campaign, did not understand their orders to stay out of the facilities until May 1, but their conduct was de minimis, and certainly does not show a conspiracy or even a "concert of action" between TUFCO and the State. Accordingly, TUFCO cannot be said to have engaged in an illegal conspiracy with the State to violate OER Guidelines (Matter of County of Albany, 15 PERB ¶3102 [1982]).

CONCLUSION

THE CHARGE IN CASE NO. U-7375 SHOULD
BE DISMISSED, AND THE CHARGES IN CASE NOS.
U-7385 AND -7406 SHOULD BE SUSTAINED, IN-
SOFAR AS THEY ARE SUPPORTED BY THE EVIDENCE

Dated: August 10, 1984
at Albany, New York

Respectfully submitted,

JEFFREY H. BROZYNA, ESQ.
Attorney for the Union of
Federated Correction Offi-
cers and the United Fed-
eration of Correction
Officers, Inc.
Office & P.O. Address:
313 Washington Avenue
Albany, New York 12206
Tel.: (518) 465-3352

STATE OF NEW YORK
COUNTY OF ALBANY

AFFIDAVIT OF
SERVICE BY MAIL

SS:

Nancy K. Stockwell, being duly sworn, deposes and says that she is over the age of 18 years; that she served the within Supplemental Memorandum of Law in PERB Case No. U-7375, U-7385 and U-7406 upon the following at the following time(s) and place(s) in the following manner August 10, 1984:

New York State Inspection,
Security and Law Enforcement
Employees, District Council 82,
AFSCME, AFL-CIO, 63 Colvin Avenue
Albany, New York 12206

State of New York
Department of Correctional
Services
State Office Bldg. #2
Albany, New York 12226

State of New York
Office of Employee Relations
Agency Bldg. #2, E.S.P.
Albany, New York 12223

Brian J. O'Donnell, Esq.
Rowley, Forrest & O'Donnell, P.C.
90 State Street
Albany, New York 12207

by depositing a true and correct copy of the same properly enclosed in a post-paid wrapper in the Official Depository maintained and exclusively controlled by the United States at 118 Bradford Street, Albany, New York, directed to said parties respectively, at said address(es), respectively mentioned above, that being the address(es) within the state designated for that purpose upon the last papers served in this action or the place where the above then resided or kept offices, according to the best information which can be conveniently obtained.

Nancy K. Stockwell

Sworn to before me this 10th
day of August, 1984

Jeffery H. Brozyna

Notary Public

JEFFERY H. BROZYNA
Notary Public, State of New York
Qualified in Schenectady County
Commission Expires March 30, 1986



STATE OF NEW YORK
GOVERNOR'S OFFICE OF EMPLOYEE RELATIONS
AGENCY BUILDING NO. 2
ALBANY, NEW YORK 12223

COUNCIL 82
RECEIVED
SEP 21 1984
AFSCME AFL-CIO
NANCY L. HODES
EXECUTIVE DEPUTY DIRECTOR
JOSEPH M. BRESS
GENERAL COUNSEL

THOMAS F. HARTNETT
DIRECTOR

September 19, 1984

Jeffrey H. Brozyna, Esq.
Attorney at Law
313 Washington Avenue
Albany, New York 12206

Dear Mr. Brozyna:

Regarding your letter dated September 14, 1984 and our telephone conversation today, I have alerted the Department of Correctional Services, Labor Relations Bureau that you have complained about Council 82 distributing anti-TUFCO petitions at the Fishkill, Downstate and Ossining facilities. While you were unable to furnish me with dates, times, sites or names, such activity if performed in work locations would violate our guidelines.

The Department is looking into your allegations and Council 82, which shall receive a copy of this letter, is hereby notified that such activity if violative of our guidelines cannot be condoned.

Sincerely,

Walter J. Pellegrini
Deputy Counsel

cc: Thomas F. Hartnett
Joseph M. Bress
Kevin Breen
= ✓ John Burke
Thomas A. Gibbs

9-24-84
copy
Dick
Hully
Frouh
JWB:kd

INSTRUCTIONS

After telling many correction officers that it was seeking cards to represent a bargaining unit of correction officers only TUFCO has petitioned for the entire security services bargaining unit including non-corrections titles such as Capitol Police Officers, Campus Security Officers, Building Guards, Forest Rangers, etc. Many employees have signed statements that they were told that TUFCO wanted to represent a bargaining unit of correction officers only and signed TUFCO cards based upon that representation. These employees have signed statements saying that they would not have signed the TUFCO cards but for that representation.

PERB has now asked for more detailed information about TUFCO's representations that it sought a corrections only bargaining unit. PERB as requested the names of the individuals who made the statements, the date, time and place and witnesses to the statements and what was said.

PERB wants this information in affidavit form. Attached to this instruction sheet is a blank affidavit form. Please fill in the blanks in your own words with as specific information as you can recall. Paragraph 9 is blank. If you were told on more than one occasion that TUFCO was going to petition to represent correction officers only, fill in the details of the other occasions in paragraph 9. Sign it before a notary public and return it to your field rep. He will see that it gets to the Public Employment Relations Board.

If there is no notary public available, cross off the portion at the end that says:

Sworn to before me this
____ day of October, 1984

NOTARY PUBLIC

and have anyone else sign your statement as a witness. If you have any questions, call Brian O'Donnell collect at (518) 434-6187. If he is not there when you call, leave your name, phone number and a time when he can call you back.

STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD

In the Matter of :

STATE OF NEW YORK, :

Employer, :

- and - :

THE UNION OF FEDERATED CORRECTION : AFFIDAVIT
OFFICERS, : Case No. C-2825

Petitioner, :

COUNCIL 82, AMERICAN FEDERATION OF :
STATE, COUNTY AND MUNICIPAL EMPLOYEES, :

Intervenor. :

STATE OF NEW YORK)
) ss.:
COUNTY OF)

_____, being duly sworn, deposes
and says that:

1. I am a correction officer employed at _____
Correctional Facility. My post office address is _____
_____.
My telephone number is (home) _____ (work) _____.

2. I had a conversation with _____,
a representative of the Union of Federated Correction Officers,
(TUFCO). In words or substance what he told me about which
employees TUFCO was seeking to represent was: _____

3. In words or substance what he told me TUFCO was going to do about other employees such as Capitol Police Officers, Campus Security Officers, Building Guards and Forest Rangers, etc. was: _____

4. During this conversation I was asked to sign a TUFCO designation card. Based upon those representations which I understood to mean that TUFCO was seeking to represent correction officers only, I did so.

5. I would not have signed a designation card for TUFCO but for those representations which I understood to mean that it would represent only correction officers.

6. This conversation took place at: (the place) _____

7. It occurred on or about: (the date and time as best you can remember) _____

8. _____

_____ were present at the time that the conversation occurred.

- 9. _____
- _____
- _____
- _____
- _____
- _____
- _____
- _____
- _____

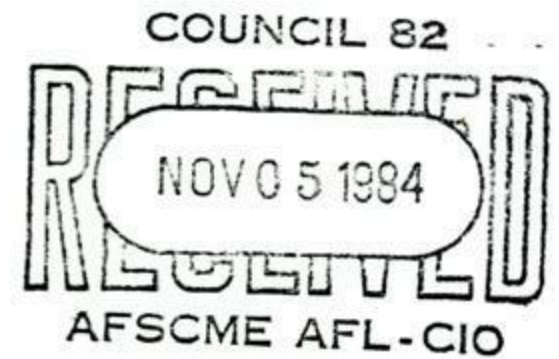
Sworn to before me this
___ day of October, 1984

NOTARY PUBLIC

UNIVERSITY POLICE LOCAL 1792

SECURITY AND LAW ENFORCEMENT
COUNCIL 82 AFSCME - AFL - CIO

11/2/84



Dear Frank,

Jack Emmett told me to send you a
copy of this TUFCO Propaganda, just
in case you don't already have a copy -

Don Keger
UNIT CHAIR
SUNY BUFFALO.

11/5/84 cc file
Original to I Benedetto

THE UNION OF FEDERATED CORRECTION OFFICERS — THE ALTERNATIVE HAS ARRIVED!!

The Legal Procedure For Electing a New Bargaining Agent

The State enacted the Taylor Law in order to regulate the activities of public employers and labor unions in the public sector. Council 82 has generated a large amount of propaganda in which they alleged that you will lose certain contractual and legal rights if TUFACO Union is elected to replace them as bargaining agent for the Securities Services Unit. Nothing is further from the truth and the purpose of this article is to give you the straight story.

The Taylor Law requires that any union that is to be a bargaining agent for a unit of State employees must be an "employee organization." TUFACO Union qualifies as such an "employee organization" by virtue of its written constitution.

If a challenging union such as TUFACO Union can demonstrate a sufficient interest in its program, PERB (Public Employee Relations Board) will call for a representative election in order to determine whether you want a new bargaining agent. Under the Taylor Law, this showing of interest can be met if 30% of the bargaining unit sign petition cards designated for this purpose. These cards must be signed within six months of August, 1984 in order to be valid. TUFACO Union is in the process of complying with this requirement.

These signature cards are confidential material. They cannot be legally seized by Council 82 or by the State or by anyone else for that matter.

Once TUFACO Union has delivered their required 30% in the form of signature cards, PERB will declare that a secret ballot election will be held between TUFACO Union and Council 82. This election would probably be held sometime in September or October of 1984. Once TUFACO Union obtains a majority of the votes cast in that election, TUFACO Union will replace Council 82 as the bargaining agent for your unit. It will then be TUFACO Union's responsibility to negotiate the collective bargaining agreement and contract with the State of New York.

Council 82, through its propaganda, has completely misstated the Taylor Law. When TUFACO Union is victorious, you will not lose your benefits under the existing contract. TUFACO Union, as your bargaining agent, takes over the existing contract. The existing contract expires on March 31, 1985. Even if no new contract is negotiated at that point in time, the Taylor Law, the Triborough Amendment, and certain court decisions provide that the State of New York is bound by the terms and conditions of the expired contract until a new contract is signed.

In the Triborough Amendment (Section 209-a(1) (e) of the Taylor Law) it states very clearly that the existing contract continues with the State if a new bargaining agent takes over the unit or if the contract date (March 31, 1985) passes without a new contract being signed. The law reads in part as follows:

"Improper practices. It shall be an improper practice for a public employer or its agents to deliberately
e) to refuse to continue all the terms of the expired agreement until a new agreement is negotiated"

In short, **none** of your rights are lost when TUFACO Union replaces Council 82 as your bargaining Agent.

Quite the contrary to Council 82's propaganda.

Additional Benefits Provided by TUFCO Union

A union has a duty to negotiate the best possible contract with the employer. However, the union's responsibility does not stop there. Much more can be done, and it can be done independently from any restrictions imposed by the employer. Once TUFCO Union is certified as bargaining agent, we will provide benefits for you which Council 82 never dreamed of. We can do this without raising your dues. Because TUFCO Union is an independent union, the membership will save hundreds of thousands of dollars a year in monies that would otherwise have been paid to national and international organizations. This money can be redirected into new programs designed for the benefit of the membership. Specifically, we will establish the following programs independent of the contract once we have unseated Council 82.:

1. **What should you do if you face a disciplinary proceeding?** In the past it has been the correction officer who has been at a disadvantage. It seems there is no limit to the legal representation that the State can provide itself, nor is there any shortage of attorneys to represent inmates. By providing you legal counsel, we will even the odds, and we will get the word out that we are not to be taken lightly.

A toll free telephone number will be provided directly to the office of our general counsel in Albany. You will have an opportunity to explain your predicament to our legal staff. Legal representation will be provided for you at no cost.

2. **What should you do if you have a legal problem of a personal nature?** TUFCO Union will establish a prepaid legal services program. Such programs are authorized by the Internal Revenue Code and many progressive unions across the country utilize this. Such a program provides legal representation to you. Certain legal services are provided at no cost. For other legal services, attorneys can be provided at a reasonable fee which is set by TUFCO Union.

Examples of free services would be: initial telephone consultations with attorneys, initial conference with an attorney, representation in workman's compensation proceedings, and other services as our program develops.

Special group rates will be provided for such services as real estate closings, family law and matrimonial situations, civil lawsuits, traffic violations, etc. A union member will be responsible for the legal services of this type which he obtains, however, the services will be provided at special agreed to rates which have been negotiated between the Union and participating attorneys. If you have an attorney already, and if he is willing to meet the requirements of the program, you may utilize his services if you wish.

3. **What do I do in event of a health or financial disaster?** TUFCO Union will establish a state-wide disaster fund in order to assist correction officers and their families who are in need. It is high time that your union stand behind you in the event of medical emergency, financial stress, and personal tragedy. A committee will be established to review potential recipients and it will be their job to see to it that you and your family never stand alone in your hour of need.

A toll free telephone number will be provided so that you can get prompt service. Committees will be established at the regional level in order to evaluate your situation and provide financial help if necessary.

4. **How do I pay for my children's college education?** TUFCO Union will establish a system of educational scholarships to assist your children in gaining a college

3

education. TUF¹CO Union will establish a fund which will generate sufficient earnings to assist all dependent children of union members who wish to attend college. Each year a certain amount of money will be allocated in the budget for assistant scholarships, and those funds will be divided equally among all college bound dependents.

There will be larger scholarships available on a scholastic basis, a need basis, and athletic scholarships as well.

All the earnings on the educational funds will be allocated for your college bound children. The scholarship per pupil will be determined by the earnings of the educational fund, and the number of children who attend college in that given year.

5. Who will help me in finding lower rates in life insurance and disability insurance? There is strength in numbers. TUF¹CO Union will provide lower rates for life insurance and disability insurance through its bargaining position. This will be accomplished by constantly monitoring the ever changing insurance market and by negotiating group rates where possible with insurance carriers. Council 82 has shown that it has lacked the expertise or the willpower to provide these services in the past. It will be an important service provided by TUF¹CO Union.

6. Who will help me at income tax time? TUF¹CO Union recognizes that correction officers and their families frequently have unique income tax problems. In some instances, disability income is partially non-taxable. Also, workman's compensation awards can also be non-taxable. It is vital for correction officers to have access to top-notch income tax counselling and preparation services. Why spend more money on income taxes than is legally necessary?

TUF¹CO Union will establish a comprehensive program of confidential income tax counselling and income tax preparation. This service will be provided exclusively for members of our bargaining unit.

7. Where can I get retirement planning? TUF¹CO Union will provide a comprehensive program of tax and retirement planning services. This will be an important departure from the attitude that Council 82 has exhibited in the past. In the past a retiree has been left to wade through the employees benefit selections and bear the tax consequences on his own without professional assistance. TUF¹CO Union will provide you with information and planning regarding your employee benefits, income tax reduction through careful planning, insurance planning, wills and trusts, inheritances, investments, and retirement planning. This confidential service will help you keep more of your hard earned money now and will help you plan for your future retirement by utilizing legitimate tax planning techniques. It will also help guarantee your family's financial security.

This service will be provided by highly trained tax attorneys and accountants. The new programs instituted by TUF¹CO Union can go far beyond the items which we have just mentioned.

8. TUF¹CO Union will undertake a comprehensive public relations campaign designed to enhance the status of Correction Officers and security personnel in the community. This will be done not only through the media, but our locals will be active in community programs as well. Such union public relations campaigns have been successful for other professions (most notably school teachers in 1983), it is time your union took an active role in broadcasting your dedicated work and achievements to the community.

You may say to yourself, haven't I seen AFSCME run television commercials designed to show the public that public employees do a good job? While it is true that AFSCME has run such commercials, to the best of our knowledge, New York State Correction Officers have never appeared in any of those commercials. This demonstrates quite clearly where you stand as far as AFSCME is concerned. AFSCME is designed for the average state employee. AFSCME cannot meet the specialized needs of Correction Officers and other members of the Security Services Unit.

TUFCO Union will provide professional outside negotiators at contract time in order to present the most comprehensive negotiating package possible. All too often in the past, Council 82 has been outgunned and outmanned by experts who have provided service to the State. It is time that professional expertise is provided on our side for a change. A professional negotiator cannot only offer strong proposals for the negotiations, but can formulate a specific and constructive plan as to where the State can find the money to fund our contract.

Our Professional Staff

By virtue of their expertise and their experience, our staff will be able to provide the professional guidance that is so important in today's day and age. These people are all hard workers, they are self-made and throughout their careers have shown a dedication to individuals and working people.

Our general counsel: JEFFREY H. BROZYNA. Jeff's legal practice in Albany, New York, is concentrated in tax law, business law, real estate, retirement planning, pensions, and other employee benefits. He is a graduate of Hobart College and Albany Law School. At one time he was a senior attorney with a national tax and financial counseling firm which provided tax and financial planning for individuals, family businesses, and others in over 35 states, and several foreign countries.

In addition to business law and tax law, he has done legal work for various not-for-profit organizations.

Since he has been in private practice, his primary goal has been to help individuals (at all levels) to achieve income tax savings and financial security through adequate tax and retirement planning. In addition he has guided many individuals through very tough IRS tax audits. In 1977 he was a recipient of the National Commercial Bank and Trust Company (now Key Bank) Estate Planning Award.

His community work includes works with the Schalmont High School, Mohonasen High School and Draper High School Adult Education Programs, and he is well known in the Albany, New York area for his seminar work on tax and retirement planning.

Our certified public accountants: ARTHUR PLACE & COMPANY. Art Place maintains an accounting firm of fourteen professionals in Albany, New York. His firm has a blend of highly trained professionals and sophisticated computer hardware and software. This combination provides efficient and modern service.

Currently, Art Place does accounting work for the Electrical Worker's Pension and Welfare Fund as well as the Apprentice Training Fund. In the past he has done accounting work for the Telephone Traffic Union, the Telephone Commercial Union, and the Operating Engineers and Structural Iron Workers. Art's father was a member of the Seamen's Union.

5

Art Place is a graduate of Bucknell University. He completed a program in labor relations and management accounting. Art was lieutenant in the military police in Germany in 1960. He was assigned to NATO Security. He was also a graduate of the NATO Security CBR Warfare School.

Art Place is a self-made man who understands the personal and accounting needs of working people.

The firm of Axelrod, Cornachio, Famighetti and Capetola, Attorneys & Counselors at Law offers a wide range of legal expertise including criminal law, civil matters, workman's compensation and social security matters.

Michael C. Axelrod, a 1969 graduate from the University of Miami in Coral Gables, Florida, was admitted to the New York State Bar in March of 1974 as well as the Florida Bar in December of 1973. He attended the New England School of Law in Boston, Massachusetts, graduating at the top of his class, having received numerous awards and being an editor on the New England Law Review. His first years in practice were spent as a criminal defense attorney with the Legal Aid Society of Nassau County, before joining the Law Offices of Richard Hartman in the spring of 1976. He served as managing attorney for Richard Hartman through 1980 and 1981 and received his Masters in labor law from New York University in June, 1981. In addition to being admitted to the New York and Florida Bars, he is licensed to practice before the Supreme Court of the United States, U.S. Circuit Court of Appeals, Second Circuit, and The Eastern and Southern Districts of the Federal District Court in New York. Mr. Axelrod engages primarily in labor relations for police unions in Nassau and Suffolk Counties as well as the New York State Police and the Metropolitan Police Conference.

Mike is one of the recognized authorities in collective bargaining between police and law enforcement organizations and State and local governments. Over the years he has an impressive list of accomplishments in this regard, and he is well known for getting the job done for his clients. He has the technical expertise to dissect a budget and determine exactly what the employer can afford in the way of contract concessions.

Anthony W. Cornachio was admitted to practice law in the State of New York and in all Federal Courts after attending law school at St. John's University, after having previously received his Bachelor of Arts Degree from Fordham University and a Masters Degree at Adelphi, as well as a Masters in Labor and Industrial Relations from New York Institute of Technology. His first job was as an Assistant District Attorney for the Nassau County District Attorney's Office. He served as a law secretary to Nassau County Court Judge Richard Delin. In between terms with Judge Delin, he worked in private practice. Before joining the firm, he was Commissioner of Occupational Resources of the Town of Hempstead;

Joseph P. Famighetti, a former police officer and detective with the Long Island State Parkway Police was also Vice President of that union. While a policeman, he attended St. John's University, where he received his Juris Doctor and was admitted to the Bar of the State of New York. He received his Bachelor of Arts Degree from Adelphi University. He also worked as a Nassau County Assistant District Attorney. He was the law secretary to Nassau County Court Judge Edward Baker for six (6) years. In addition to being a member of various civil associations and fraternal orders, he also ran for the State Legislature in the 16th Assembly District in 1980;

Anthony A. Capetola, attended Wagner College where he was a football star and graduated there in 1967. He received his law degree from New York Law School in 1970

and immediately went to work with the Nassau County District Attorney's Office until going into private practice in 1973. Known as an outstanding trial lawyer, he specializes in difficult litigation, and sophisticated criminal and civil law.

Francis X. Casale, Jr., received his Bachelor of Arts Degree in Political Science Cum Laude from the State University of New York at Albany. He attended Hofstra University School of Law and received his Juris Doctor degree in May, 1980. Mr. Casale engages primarily in the area of public sector pension litigation, workmen's compensation, Social Security work and civil litigation.

Robert M. Schaufeld attended Brandeis University in Waltham, Massachusetts, and received his B.A. in History and was an honors candidate in legal studies. He attended Hofstra University School of Law and received his Juris Doctor in May, 1981. From 1979 until joining this firm, he was the chief legal researcher for the Law Offices of Richard Hartman, dealing extensively in New York State Public Employment Relations Board Law and New York State Retirement System cases.

Frank A. Doddato, a graduate of Fordham College in 1970, passed the New York state Bar in 1974 after graduating from Brooklyn Law School in 1973. He served in the Nassau County District Attorney's office from 1974 to 1981, the last several as a trial attorney and Deputy Bureau Chief in the Rackets Bureau of that office. He has been in private practice for the last several years, specializing in complicated criminal and civil litigation.

Judith P. Dugan, a South Carolina native, graduated from the University of South Carolina. She then attended New York State Law School graduating in 1980. After serving with distinction in the Nassau County District Attorney's office for three years, she entered private practice, specializing in criminal and civil litigation.

James S. Paar, recently of the Suffolk County District Attorney's office, Rackets Bureau, is a graduate of New York Law School. He also attended Dartmouth College, graduating in 1976. He specializes in law enforcement matters as well as complicated criminal litigation.

A large staff of clerks, researchers and secretaries service the firm on a night and day basis, seven days a week. In addition to civil and criminal cases, the firm presently represents the Metropolitan Police Conference of New York State, Inc., the Nassau County Patrolmen's Benevolent Association, Yonkers Police Benevolent Association, Suffolk County Police Conference and several Village and City Departments on Long Island, as well as the Port Authority of New York and New Jersey Police Benevolent Association.

We are extremely proud of our professional staff and are happy to have their technical expertise available to us for negotiations and for monitoring the contract during its existence in addition to legal, tax and accounting matters, etc.

Working together as a team, TUFACO will provide the expert services that you the member need today more than ever before.

Professionalism and technical expertise is an integral cornerstone of TUFACO's program.

The Highlights of the TUFCO Union Constitution

In drafting our union constitution, we felt it our utmost importance to provide for the following:

- (1) A more streamlined and efficient union organization
- (2) A one-man one-vote election of state-wide union officers by the members themselves.
- (3) Tightly regulated and professional financial and budget system.
- (4) Close contact between union officials and their members at the local levels.
- (5) Greater regional input into union activities.

In drafting the constitution, we have kept these guiding principals in mind.

The constitution provides for a strong system of locals. The membership, on a one-man one-vote basis elects the chief steward and assistant stewards to represent them. Not only does the chief steward fulfill his traditional functions on the local levels, he will also represent the local in a legislative body which we call the regional boards. The regional boards deal with the specialized problems of each geographic area in the State as well as structure the proposed budget for locals in that region. In this way, the uniqueness of each region in the State and each local within it can be provided for.

Each geographic region in the State will have a professional business agent. The business agent will assist the locals and will coordinate the activities of the local in each geographic region. The business agent in each region will work closely with a regional executive. The regional executive will be one of the executive board of directors which is the highest executive body in the union. Because of the close cooperation between the chief steward of each local, the regional business agent, and the regional executive, the important concerns of each local in each geographic area can be expressed directly to the union leadership in Albany. In this way, the state wide union leaders can maintain close contact with the members that they serve, and the members will have easy access to their regional and state wide representatives.

The state wide union officers such as President, Secretary-Treasurer and the union Vice-Presidents, are elected **directly** by the membership on a one-man one-vote system. They are **not** elected by an elite group of delegates. The union officers are responsible to the membership and are answerable to the membership for their actions. Union officers are elected every three years.

The union convention will be held every two years. At the convention, each local will send delegates who will discuss union policies, and vote on various resolutions for the benefit of the union at large. It will then be up to the state wide union officers, (who also serve on the executive board) to implement the policies of the union. This includes collecting financial information and proposed budgets from the various regions each year, and preparing the annual union wide and regional budgets for approval by the union board.

The union board is the chief legislative body of the union. It is composed of the chief steward of all the locals in the State. The union board approves a union wide budget, as well as regional budgets. The regional board in each region will then allocate a dollar amount for each local. Each local can then determine how it will spend its own money.

8
The dues that you pay will remain the same as the dues that you paid Council 82. However, because TUFACO Union is independent, vast sums of money need not be paid out of the members pocket directly to national and international organizations. The actual dollars saved will be directed to fund TUFACO's innovative programs. Programs that will result in tangible benefits for you, the member.

Ask yourself, why is it that just now, since TUFACO's challenge has Council 82 made any attempt at change. No matter how feeble or transparent the change may be. It's obvious, Council 82 specializes in playing follow the leader.

In the near future TUFACO will be scheduling information meetings in your area. TUFACO representatives will be on hand to explain TUFACO's comprehensive programs and answer questions. You owe it to yourself to attend, refreshments to follow.

If you haven't signed a challenge card yet, please, take the opportunity to do so today.

Fraternally yours,

Dennis J. Fitzpatrick, *President*

Kevin W. Casey, *Vice-President*

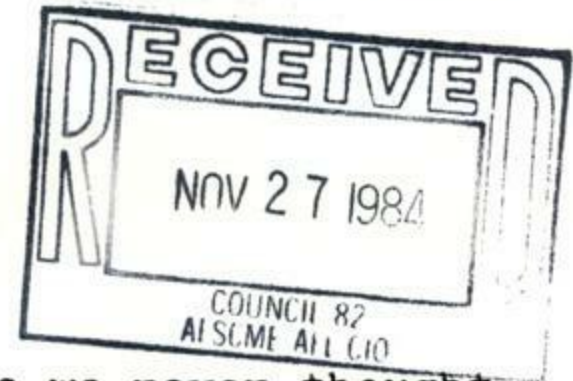
Bruce J. Farrell, *Vice-President*

James Morrissey, *Secretary-Treasurer*

Marion Dantzler, *Assistant Secretary-Treasurer*

J. B.

COUNCIL 82 v THE PROBLEM



Since Council 82 is now facing a challenge we never thought would go this far, it is now time for us to ask ourselves -

WHO OR WHAT IS THE REAL PROBLEM?

Do we really want to get rid of Council 82?
Why does the Council have such a poor image?
Why are members dissatisfied with their Union?
Is the Council passive toward the employer?
Has the Council cut deals that have hurt us?
Who runs the Council?
Is the Council really a Democratic organization?
Who is responsible for decisions we don't like?
Is the Council to blame?
When we blame the Council don't we really need to blame ourselves and our local leaders?
What about our leadership?
Think - Why is Jack Burke called the Ayatolla?

Questions like these deserve answers.

We think the problem is not the Council as a whole - the Executive Board has been responsive to our needs. We think the reason for Council 82's problems stems from the highest paid employee, Lt. Executive Director John W. Burke.

Burke lives on past reputations, from Elmira thru the 1979 strike.

In 1979 Burke became President of Council 82. He soon became very close personal friends with Commissioner Thomas A. Coughlin and his mentor, William Coleman.

Think - Every year Coleman hunts deer with Burke on his private property in Elmira. We all know people listen to and are influenced by their friends. Coleman gave us:

- Time and attendance guidelines
- Military leave exchanging RDO's
- Uniforms in line-ups
- Lag pay
- Trainee rates
- Workmans Compensation

Coleman saved us from ourselves- he says. What did we give Coleman - \$65,000 a year job as Chairman of QWL and support for him to become an arbitrator for the State of New York against public employees - and the right to hunt deer with Burke.

What did Executive Director Burke do when Coleman gave us these things? Nothing, until pressure from the field forced him to react.



Does the Council have a poor image? Is it passive? If you answer yes - it is because of Burke.

Does Burke run a Democratic Council? No Way! Have you ever tried to talk to him? Have you ever had an opposing view? Watch his reaction. He treats the Council's Executive Board members and Local leaders with disdain and distrust. There is no way but his way. He will not tolerate opposition. The Ayatolla? Yes!

Examples:

He fired Peter Henner without due process. As a result of that action, the Executive Board passed a motion that there can be no firing or hiring without the Executive Committee's prior approval. Does Burke follow the Boards' decision? He hired Chet LaDuke for Downstate without consulting anyone.

The Executive Board discussed the Director's role at length but as more are being hired as staff, there is less pressure on Burke.

Burke neutralizes opposition:

Clinton was giving Burke a problem - he hired Steve Pageau as a Staff Representative.

Elmira - Ed Dean was challenging Burke. He was hired as a Staff Representative.

Downstate - LaDuke was a problem. He was hired by Burke.

Germano - was a problem, hired by Burke.

Zeller - also a problem, hired by Burke.

Anyone who becomes a problem is either abused (Henner) or hired and therefore neutralized.

On the other hand, Burke needs his cronies and he takes care of them.

Examples:

Ottavianni - Elmira, hired as a Staff Rep.

Benedetto - Project staff to QWL to Executive Assistant, groomed to become Director of QWL. He's a real "Yes Boss" employee for Burke.

Morris - Elmira to QWL. He is falling out of favor.

Kleinschmidt - Clinton to QWL

Smith - Safety officer to QWL

The list is endless when it comes to deals cut with the State. Yet we know Burke obstructs any new ideas that will benefit our members. These are only a few examples.

Why is Attica receiving Rowley and Forrest to represent officers that are undergoing IG investigations; while Downstate has four officers suspended and they have not received Rowley and Forrest to represent them? Why? He thereby neutralizes any Attica opposition. Burke selects who will receive representation. The Downstate officers ~~have~~ to go it alone.

Read Burkes column in the Enforcer/Review. Can anyone so negative do anything positive? Negative people breed negative actions.

Many local leaders can attest to their treatment. Ask them or any Executive Board or Staff member - they know the real deal.

We know how difficult it has been for our elected leadership to accomplish any changes at all with Dictator Burke; but it is time for them to grow a set of balls NOW to deal with Burke. Haven't we had enough? Together we can change what is happening. There are a number of people who would do a better job for us.

This letter is going to every Council 82 Local President, Staff Representative, and Board official. We want you to be aware of the real problem and our feeling and the only possible resolve available - get rid of Burke and save Council 82. The challengers are not the answer. They could not represent us for years. They have no money, no experience, and no track record.

The Devil you know is better than the Devil you don't know.

Together we can change what is happening. We must put pressure on the Executive Board and it's Burke supportive President. Word is even he has given up trying to work with Burke. Bishard even sent a letter to the Department of Correctional Services informing them that he is tired of being passed over for Burke.

We must demand that the Board request Burkes resignation for the good of the whole organization! OR Fire him!!

You can do your part. Inform the membership, get a motion to get rid of Burke. Send the results to the Executive Board. Mandate them to take action.

The bottom line is that we must save the Council and the Council must be more responsive to our needs, and less passive to the State.

WE MUST TAKE ACTION NOW!

Think - With a more receptive and responsive Executive Director, would the Council be facing this challenge?

The Times Herald Record
Middletown, New York 14940

Attention: Anne Crowley, State Editor

Dear Ms. Crowley:

As Council 82 local representatives, we would very much like to elaborate further on your recent editorial captioned, "Dissident Union for Prison Guards wins Minor Victory", published Tuesday, November 13, 1984 in The Times Herald Record of Middletown.

To set the record straight, for all those who have been misled by false information, let us start by explaining that we are the two Council 82 local representatives that were present on the evening of March 4, 1984 at the Fishkill Correctional Facility when four (4), not two (2) individuals were discovered inside the facility without proper authorization, two (2) months prior to the legal challenge period soliciting signatures for this rival organization, calling themselves a union.

To begin with, these individuals lied to the Watch Commander and were able to gain entrance into the facility under false pretenses. This is an absolute violation of our departments Policy and Procedural Manual Directive 2101, a violation of our departments Employees' Manual Section 6.25, as well as a violation of a departmental memorandum dated May 1, 1984 (Subject: Challenge Campaign Activities).

Even if it was during the legal challenge period beginning May 1st, which it was not, advanced permission must be obtained to visit facilities, and this permission, if granted, is to be restricted to non-housing areas and at no time is to interfere with the departments programs or operations. Campaigning is not permitted in any work area and posting of campaign material is also not allowed. This is also addressed in another department memorandum dated March 8, 1984 and in Section 12 of the Employee Relations Manual.

The Watch Commander on duty at the Fishkill Correctional Facility that evening acted properly, as he, in charge of the entire shift, has responsibility for anything that may occur during that time period. The Watch Commander, in addition to enforcing the rules and regulations of the department, is also bound by them.

Policy and Procedural Manual Directives 4910, 4931, 4936 and the Employees' Manual Section 6.21 all state that any article which may not be properly taken in to or out of a facility may be confiscated. Any article not having prior approval is considered contraband and, therefore, justifies the Watch Commanders actions on the evening of March 4, 1984.

What has not been mentioned in your recent article is that when this incident occurred, T.U.F.C.O. attempted to bring legal action against the State of New York and Council 82. They requested a temporary restraining order on the seized cards and Justice of the Supreme Court, Joseph P. Torraca granted them a preliminary injunction. As a result of their efforts to regain control of the cards, Justice of the Supreme Court, Con G. Cholakis, who heard the case, vacated the preliminary injunction on August 16, 1984 and ruled that neither the State of New York or Council 82 did anything wrong. He closed by dismissing all charges against either party (The State of New York and Council 82) and charged T.U.F.C.O. with all court costs. **NOW THAT IS OUR VICTORY**, which was won on August 29, 1984.

Following the loss that T.U.F.C.O. suffered, they brought the case before Public Employee Relations Board Administrative Law Judge, Kenneth J. Toomey, who said the confiscation of the cards violated the confidentiality guaranteed under law to those who signed the cards.



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What part does confidentiality play inside of a prison when its employees are subject to search at anytime? (Refer to Directives 4910, 4936 and the Employees' Manual Section 15.5). The need, he said, to protect the identity of those who signed the cards is paramount to the States need to confiscate. "Protect the identity from who?"

T.U.F.C.O. alleged that Council 82 participated in the seizure of the cards, which is an absolute lie. At no time did either Council 82 local representative see any names, or have in their possession the aforementioned cards. The Watch Commander properly secured the cards until they could be turned over to the facility Superintendent.

It is obvious by your article, regarding Judge Toomey's decision, that he is either not aware or not concerned with the importance of the Department of Correctional Services rules and regulations, which are based on laws such as Civil Service Law, Correction Law, Criminal Procedure Law, Penal Law, Taylor Law, Labor Law, as well as many other laws.

It is also apparent that he is not interested in what those individuals were doing inside of a Correctional Facility without proper authorization, two (2) months prior to the legal challenge period or the fact that the Council 82 local President received several written statements by Officers either intimidated or lied to, in an effort to obtain their signatures for an election, which were turned over to P.E.R.B.

It is also evident that this judge could care less about all the illegal activities these T.U.F.C.O. representatives have engaged in, long before this incident ever occurred, all of which were reported and documented.

On 2-2-84 literature distributed inside the facility by T.U.F.C.O.

On 2-23 + 24-84 T.U.F.C.O. handouts placed in time card slots and posted on bulletin boards.

On 3-1-84, T.U.F.C.O. representatives walking throughout the facility having our members sign cards.

On 4-14 + 15-84, T.U.F.C.O. representatives utilizing a security emergency telephone system to advertise for their challenging organization. A BREACH OF SECURITY!

It is extremely frustrating to those of us who follow procedure, to sit back and listen to the lies being told by these malcontents, as well as watching the continuous sneaky, illegal, intimidating tactics they have used in an attempt to gain control, all with only themselves in mind.

It began with many newspaper articles written by them DENYING the challenge of Council 82. From there, they continuously lied about what they stood for and their future goals, NEVER releasing a constitution or by-laws governing their deceiving organization. Many Officers of our bargaining unit have stated and signed affidavits to the fact that they were "blackballed" into signing with the T.U.F.C.O. organization, or were forced to sign under duress. Newer Officers were told they would be treated like a "scab" during a strike, and many admitted they had fallen victim to their lies.

The only thing this organization, that this week sells insurance and next week claims to be a union, have managed to do is sadly destroy the unity of the members of Council 82.

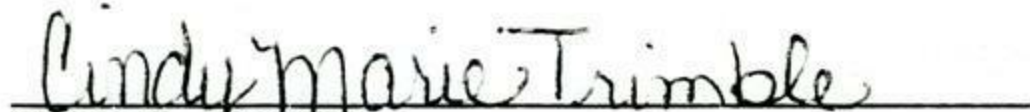
Judges like Toomey, so concerned with confidentiality, should take the time to look at the whole picture and the facts as they really are, instead of skimming the surface and rendering decisions that condone the illegal activities of organizations like T.U.F.C.O., LACKING CREDIBILITY AND INTEGRITY.

But all is not lost, because we, as officials of this Council, which we are proud to be, have every intention of pursuing this issue and winning any election that may be held, OVERWHELMINGLY!

In hopes that you will print this, we are sincerely yours,



Ronald Edwards
President/Local 1255 Vice-President/Council 82
Fishkill Correctional Facility
Box 307
Beacon, New York 12508



Cindy M. Trimble
First Vice-President/Local 1255 Correction Policy Secretary/Council 82
Fishkill Correctional Facility
Box 307
Beacon, New York 12508

/cmt

cc: John W. Burke, Executive Director/Council 82
Richard J. Bischert, President/Council 82
Joseph Puma, Correction Policy Chairman
Charles Booth, Director of Public Relations
Theodore C. Reid, Superintendent of Fishkill Correctional Facility
Carmine Piacente, Deputy Superintendent for Security Services/Fishkill Corr. Facility
Walter Thorne, Correctional Lieutenant

STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD



In the Matter of
STATE OF NEW YORK,

Employer,

-and-

THE UNION OF FEDERATED CORRECTION
OFFICERS,

CASE NO. C-2825

Petitioner,

-and-

COUNCIL 82, AFSCME, AFL-CIO,

Intervenor.

DECISION OF DIRECTOR

On August 29, 1984, The Union of Federated Correction Officers (TUFCO) filed a petition seeking the decertification of Council 82, AFSCME (Council 82) and its own certification as the exclusive negotiating agent for employees of the State of New York (State) in the State's Security Services Unit. A conference was held before Kenneth J. Toomey, Esq., the Administrative Law Judge assigned to the case, on September 26, 1984, to discuss issues raised by the petition. At that time, Council 82 challenged both the validity of TUFCO's showing of

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COUNCIL 82
OFFICE OF THE CHAIRMAN
interest,^{1/} asserting that it had been fraudulently induced, and TUFCO's eligibility to represent all employees in the Security Services Unit, based, inter alia, on certain provisions of its constitution and by laws.^{2/}

In furtherance of my investigation under §201.9(a)(1) of the Rules, Council 82 was directed to submit an offer of proof setting forth the specific facts in support of its allegations. It did so on October 22. On October 31, the parties were directed to submit legal memoranda addressing the issue of whether, if proven, Council 82's assertions should affect the further processing of TUFCO's petition. Each party has responded.

THE SHOWING OF INTEREST

In support of its first allegation -- that the showing of interest submitted by TUFCO in support of its petition is so permeated by fraud in its inducement as to be invalid

^{1/} Rules of Procedure (Rules), §201.4(a).

^{2/} While the make-up of the bargaining unit is not challenged in this proceeding, three petitions were filed in August to remove certain titles from the Security Services Unit. Of those, one (Case No. C-2829, relating to lifeguards) has been withdrawn, one (Case No. C-2827, relating to "supervisory" employees) is pending a hearing, and one (Case No. C-2826, relating to parkway police) has been litigated and awaits decision.

-- Council 82 offered written statements by a number of correction officers that they signed TUFCO designation cards because, and only because, it was represented to them by TUFCO agents that TUFCO would seek to represent a unit consisting solely of correction officers. Since those cards were in fact used to support TUFCO's petition to represent the existing unit, which includes other than correction officers, Council 82 asserts that the showing of interest should be invalidated as being obtained through a deliberate misrepresentation as to the purpose of the cards.

My investigation into the validity of a showing of interest submitted in support of a representation petition is limited in its scope by §201.4(e) of the Rules,^{3/} which provides in pertinent part:

(e) The Director may direct an investigation and, if necessary, a hearing whenever he deems it appropriate to ascertain whether the evidence submitted is accurate. If he determines that evidence is fraudulent

^{3/} The scope of review of a showing of interest is not so limited in some jurisdictions. For example, §447.307(2) of the Florida Public Employees Relations Act permits a challenge to signatures on a showing of interest on the grounds that they "were obtained by collusion, coercion, intimidation, or misrepresentation or are otherwise invalid."

or that the declaration^{4/} is false, he shall take such reasonable action as he deems appropriate to protect the integrity of the procedures of the Board in connection with the pending matter.

Thus, unless it can be shown that the evidence of a showing of interest submitted is in a form which is a fraud or misrepresentation on the Board such as would compromise the integrity of its procedures, the evidence will be accepted.^{5/} Examples of such fraud or misrepresentation would be forged signatures on the cards^{6/} or the submission of a showing of interest which had been tampered

^{4/} This reference is to the "declaration of authenticity" required by §201.4(d) of the Rules. In its brief, Council 82 for the first time asserts that TUFECO's declaration of authenticity is false, alleging that some of the designation cards were not, as the declaration avers, signed on the dates indicated thereon. However, the instances cited are not nearly sufficient in number, even if true, to affect the numerical sufficiency of TUFECO's showing of interest. Thus, further investigation into these particular assertions, especially at this stage of the proceedings, is not warranted. See O'Keefe v. Helsby, 76 Misc. 2d 934, 6 PERB ¶7014 (Sup.Ct. Nassau Co. 1973).

Similarly, Council 82's broad assertions, also first raised in its brief, that unit employees were "urged" to sign TUFECO cards by other unit employees who may have supervisory responsibilities and that newly hired employees were under "constant pressure" from senior employees to sign TUFECO cards, are neither sufficiently specific nor substantial to warrant investigation.

^{5/} For the proposition that the showing of interest requirement is for the administrative convenience of the Board rather than for the protection of any party see Board of Education of the CSD of the City of New York, 15 PERB ¶3138 (1982), and cases cited therein at p. 3218, fn. 2.

^{6/} See State of New York, 11 PERB ¶4053, aff'd., 11 PERB ¶3077 (1978).

with so as to be substantially different from that signed by the employees.^{7/}

Here, however, Council 82 alleges that employees signed the TUFCO cards on the basis of misrepresented facts. Since there is no allegation that the signatures are not genuine or that the cards are not accurate, i.e., are not in the form actually signed, the showing of interest is acceptable and sufficient.

The designation cards clearly state on their face that they are to be used for purposes of securing an election "for the right to represent my bargaining unit," an unambiguous reference to the unit of which the signing employee was at that time a member -- the Security Services Unit. Even if the purpose of the cards was misrepresented by the TUFCO agents, the written form was sufficiently clear to belie any statement of contrary purpose.^{8/} The question of whether the employees desire representation and the identity of the negotiating agent is best answered in circumstances such as these through the election process.^{9/}

7/ See County of Westchester, 14 PERB ¶8005 (1981).

8/ County of Erie, 13 PERB ¶4060 (1980).

The private sector cases cited by Council 82 to support its argument are inapposite in that they involve unfair labor practice charges and possible bargaining orders, issues not here present.

9/ See Suffolk Chapter CSEA v. PERB, 63 Misc. 2d 403, 3 PERB ¶7008 (Supt.Ct. Suf.Co. 1970), aff'd, 35 A.D.2d. 655 (2nd Dept. 1970).

Accordingly, the objections of Council 82 to the showing of interest are dismissed.

TUFCO ELIGIBILITY

Council 82 asserts that TUFCO is ineligible^{10/} for certification as negotiating agent for the Security Services Unit on two grounds: first, that it has expressed an intention not to represent the noncorrection officers who are in that unit; second, that its structure deprives its members of meaningful participation in TUFCO.

Read in a light most favorable to Council 82's position, the evidence submitted in the offer of proof may demonstrate that TUFCO's ultimate goal, admitted in its brief, is to represent correction officers in a separate negotiating unit. However, the statements attributable to TUFCO agents in this regard do not establish that if certified, TUFCO would "abandon part of the negotiating unit,"^{11/} and do not constitute grounds for dismissal of the petition.

Council 82's second objection to TUFCO's eligibility for certification is based on provisions of the TUFCO constitution whereby the five original officers, all unit employees, will maintain office, and thus membership on TUFCO's governing body -- the Executive Board of Directors -- until at least December

^{10/} Council 82 does not challenge TUFCO's status as an "employee organization" under §201.5 of the Taylor Law.

^{11/} Manhasset UFSD, 12 PERB ¶3059, at 3105 (1979); See also Enlarged CSD of the City of Saratoga Springs, 14 PERB ¶3080, aff'g 14 PERB ¶4052 (1981).

of 1988, when the first election is scheduled. Because of the powers these officers have in the organization's operations, and will have for four more years, Council 82 argues that the membership is deprived of any meaningful participation in TUFCO and that it is therefore ineligible for certification.

The issues raised by Council 82 relate to internal affairs of TUFCO which have no adverse bearing on unit members' terms and conditions of employment^{12/} or on TUFCO's representation of all unit members.^{13/} Since there is no dispute that TUFCO is an employee organization, TUFCO is eligible for certification. Accordingly, I find no impediment to the further processing of this petition.

Dated at Albany, New York,
this 30 day of November, 1984



Harvey Milowe, Director
Public Employment Practices
and Representation

^{12/} CSEA, Inc. (Boqack), 9 PERB ¶3064, aff'g. 9 PERB ¶4520 (1976). See also Board of Education of the City of Syracuse School District, 7 PERB ¶4539 (1974)

^{13/} All Security Services Unit employees are eligible for membership in TUFCO.

§201.12 Exceptions to Decision of Director; Action by Board.

(a) Within 15 working days after receipt of the decision of the Director, a party may file with the Board an original and four copies of a statement in writing setting forth exceptions thereto, and an original and four copies of a brief in support thereof, together with proof of service of copies of such exceptions and brief upon each party to the proceeding.

(b) The exceptions shall:

- (1) Set forth specifically the questions of procedure, fact, law, or policy to which exceptions are taken;
- (2) Identify that part of the decision to which objection is made;
- (3) Designate by page citation the portions of the record relied upon; and
- (4) State the grounds for exceptions. An exception to a ruling, finding or conclusion which is not specifically urged is waived.

(c) Within seven working days after service of exceptions, any party may file with the Board an original and four copies of a response thereto, or cross-exceptions and a brief in support thereof together with proof of service of a copy thereof upon each party to the proceeding.

(d) A request for an extension of time within which to file exceptions and briefs shall be in writing and filed with the Board at least three working days before the expiration of the required time for filing, provided that the Board may extend the time during which to request an extension of time because of extraordinary circumstances. A party requesting an extension of time shall notify all the parties to the proceeding of its request and shall indicate to the Board the position of each other party with regard to such request.

(e) If a party desires to argue orally before the Board, a written request with reasons therefor shall accompany the exceptions filed, the response thereto, or the cross-exceptions filed. The Board may grant such a request; it may also direct oral argument on its own motion.

(f) Upon submission of the case to the Board, it may adopt, modify or reverse the decision of the Director.

(g) Unless a party files exceptions to the decision of the Director within 15 working days after receipt thereof, that decision will be final.

(h) The Board may designate an employee organization as the exclusive representative of public employees within a negotiating unit if the employee organization has demonstrated that it represents a majority of the employees within the negotiating unit and there has been prior agreement between the public employer and the employee organization or organizations representing a substantial majority of the public employees in the unit that the majority representative should be accorded exclusive rights of representation.

§200.9 Working Days. The term "working days", as used herein, shall not include a Saturday, Sunday or legal holiday.

§200.10 Filing; Service. (a) The term "filing", as used herein, shall mean delivery to the Board or an agent thereof, or the act of mailing to the Board.

(b) The term "service", as used herein, shall mean delivery to a party or the act of mailing to a party.

An aggregated number

You next around a letter asking us to support our union. I ask you, why? since the new president that took Jeff Tuttle's place has been in office, we the outnumbered few from the Education Department haven't heard or seen any one from the union. "Newman" we have had a Christiana party, what happened this year? I feel like I'm hearing that if it were if for the union we would be working for grants but I think that it is not too much to ask to at least have a Christiana party and have our president come around and take some himself. need to come over and see me at least 2 or 3 times a year.

12-6-84



12-11-84
copy sent
to Bob
from
Cathy
Quirk

ROWLEY, FORREST AND O'DONNELL P.C.

ATTORNEYS
90 STATE STREET
ALBANY, NEW YORK 12207
(518) 434-6187

RICHARD R. ROWLEY
THOMAS J. FORREST
BRIAN J. O'DONNELL

RUSH W. STEHLIN
RONALD G. DUNN
MARK T. WALSH, JR.
ROBERT S. HITE
VERLE L. JOHNSTON, JR.
JOHN H. BEAUMONT

August 13, 1984

New York State Inspection, Security
and Law Enforcement Employees,
District Council 82, AFSCME, AFL-CIO
63 Colvin Avenue
Albany, NY 12206

Attention: John W. Burke
Executive Director

Re: Council 82 v. TUFCO
Our File No. 10614

Dear Mr. Burke:

Pursuant to your request we have analyzed the proposed bargaining demands contained in Volume 1 No. 3 of TUFCO's newspaper, The Challenger. Our research reveals that nine of the demands are non-mandatory subjects of negotiation. Set forth below are the titles of TUFCO's demands followed by the reason they are non-mandatory subjects of negotiation and citations of authority.

5 BULLET PROOF VESTS

This demand seeks to require the state to provide equipment which it does not require for the performance of the job. The City of Saratoga Springs v. Saratoga Springs Fire Fighters, 16 PERB 4523 at page 4552-4553 (1983), aff'd. 16 PERB 3058 (1983); see also City of Albany, 7 PERB 3078 (1974), and City School District of the City of New Rochelle, 4 PERB 3060 (1971).

8 COLLEGE COURSES

This demand is probably not mandatory because there is no requirement that the courses be work related. Demands for financial support of work related courses is mandatory; however, Uniformed Fire Fighters Association v. Troy, 10 PERB 3015 at page 3033-3034 (1977); City of Kingston v. New York State Professional Fire Fighters Association, 9 PERB 3069 at page 3123 (1976); see also Board of Education, Huntington v. Teachers, 30 NY 2d 122, 127-128 (1972).

Mr. John W. Burke
Page 2
August 13, 1984

13 DENTAL PLAN

This demand seeks to negotiate for both current employees and retired members. Retired members are not employees and a demand to negotiate for them is not mandatory. Police Association of New Rochelle v. City of New Rochelle, 10 PERB 3042 at page 3080 (1977). A demand presented as a single entity which contains both mandatory and non-mandatory elements is non-mandatory Pearl River UFSD v. Pearl River TA, 11 PERB 3085 at page 3140 (1978).

20 GUN PERMITS

This demand seeks to negotiate for retirees who are not employees. Police Association of New Rochelle v. City of New Rochelle, 10 PERB 3042 at page 3080 (1977). Even if this demand were applied to current employees it would be non-mandatory since it "raises questions involving the performance their official duties [and] relates to the mission of [the employer]..." City of Albany v. Albany Police Officers Union, 7 PERB 3078 at page 3137 (1974), aff'd sub. nom. Matter of the City of Albany v. Helsby, 48 AD 2d 998 (3rd Dept. 1975) aff'd 38 NY 2d 778 (1975).

21 HEALTH BENEFITS

This demand, presented as a single entity, seeks to negotiate on behalf of both current employees and retired non-employees. Police Association of New Rochelle v. City of New Rochelle, 10 PERB 3042 at page 3080 (1977); Pearl River USFD v. Pearl River TA, 11 PERB 3085 (1978).

35 TRANSFER PROVISIONS

The prohibition of transfers without consent of the employee restricts the employer's ability to determine staffing levels. Corning Police Department CSEA v. Corning, 9 PERB 3086 (1976); Amherst Police Club v. Amherst, 12 PERB 3071 at page 3126 (1979), shift selection for one year was non-mandatory; Scarsdale PBA v. Scarsdale, 8 PERB 3075 at page 3135 (1975), non-mandatory to the extent that it would prohibit schedule changes on less than seven days notice.

38 MINIMUM STAFFING

Neither bargaining over general staff size, City School District of New Rochelle v. New Rochelle Federation of Teachers, 4 PERB 3060 (1971), nor bargaining over manning levels on specific pieces of equipment (even though it involves safety) is a mandatory subject of negotiation, White Plains PBA v. White Plains, 9 PERB 3007 (1976).

Mr. John W. Burke
Page 3
August 13, 1984

39 OPTICAL PLAN

This demand presented as a single entity seeks to bargain for both current employees and retired non-employees. Police Association of New Rochelle v. City of New Rochelle, 10 PERB 3042 at page 3080 (1977); Pearl River USFD v. Pearl River TA, 11 PERB 3085 at page 3140 (1978).

48 SICK LEAVE (LACK OF CONFINEMENT AND CHECKING DURING)

Sick leave itself is a mandatory subject of negotiation but a demand that the employer relinquish to bargaining unit employees all control over the taking of sick leave or checking on its abuses, it is non-mandatory. City of Rochester v. Rochester Police Locust Club, Inc., 12 PERB 3010 at page 3018 (1979).

Demand No. 18, existing benefits, seeks to maintain anything not specifically changed in the current round of bargaining. To the extent that any benefit in Council 82's current contract involved negotiations upon a permissive subject then this demand is non-mandatory. Police Association of Mount Vernon v. Mount Vernon, 13 PERB 3071 at page 3116 (1980).

Demand No. 40, outside employment, is probably a mandatory subject of negotiation. PERB's precedents in this area are confusing and apparently not well thought out. On the one hand there are cases like City of Rochester v. Rochester Police Locust Club, Inc., 12 PERB 3010 at page 3020 (1979), in which the union sought to negotiate a provision which would have entitled officers who took police action off duty to the benefits of General Municipal Law sections 30(j) and 207(c). The proposal contained no limit to the geographical confines of the City and eliminated a provision in a prior contract which allowed the chief of police to impose such a geographical limit. PERB held the proposal to be non-mandatory since it would include police action taken within the scope of other employment, thereby encompassing matters beyond the scope of the employment relationship. On the other hand there is Local 589 IAFF v. City of Newburgh, 16 PERB 3030 at page 3048 (1983), in which PERB held mandatory a management proposal requiring prior approval of all outside employment because it dealt with the extent and quality of time off. PERB cited as its authority in that case Buffalo PBA, 9 PERB 3024 at page 3040 (1976), in which PERB held mandatory a union proposal that employees not be required to carry service revolvers off duty. Yet in Old Brookville PBA, 16 PERB 3094 at page 3157 (1983), PERB affirmed a hearing officer's


Mr. John W. Burke
Page 4
August 13, 1984

decision distinguishing Local 589 IAFF v. Newburgh and finding non-mandatory a management proposal that employees carrying off duty firearms outside the town would be deemed not working within the scope of their employment and the town would not be responsible for them. PERB's reasoning and the hearing officer's, was that this proposal dealt with matters beyond the employment relationship. PERB then went on to state that the decision to impose job duties outside the territorial limits of the town was a decision which could be made unilaterally by the employer, citing as authority City of Rochester, 12 PERB 3010 (1979). The interaction among these decisions is unclear. However, since PERB has held in Local 589 IAFF v. City of Newburgh, 16 PERB 3030 at 3048 (1983), that a management proposal to require prior approval by the chief for all outside employment is a mandatory subject of negotiation, it is likely that PERB would hold that the converse proposal to permit outside employment without prior approval would also be mandatory.

Very truly yours,

ROWLEY, FORREST AND O'DONNELL P.C.

By


BRIAN J. O'DONNELL

BJOD/vae



TRFCO

AFSCME / New York State

One Commerce Plaza, Suite 1012, Albany, New York 12210 (518) 465-4585

To: JACK BURKE From: STEVE FANTAUZZO *SF* Date: 3/28/84

Re: Television Commerical Cost Figures

FYI, the attached information may be helpful in planning.

SF/t

COUNCIL 82
RECEIVED
MAR 29 1984
AFSCME AFL-CIO

in the public service

*Advertising
T.V. Comm.*

THE CIVIL SERVICE EMPLOYEES ASSOCIATION, INC.

Local 1000, American Federation of State, County and Municipal Employees, AFL-CIO
33 ELK STREET, BOX 125, CAPITOL STATION, ALBANY, NEW YORK 12224 (518) 434-0191



MICHAEL P. MORAN, DIRECTOR OF COMMUNICATIONS

March 26, 1984

Mr. Stephan Fantauzzo
AFSCME, International Union Area Director
99 Washington Avenue, Suite 1012
Albany, New York 12210

Dear Steve:

When we were in New York for the Region 2 Legislative Breakfast, you were asking about the cost of doing an ad campaign in the Capital District.

I am sending you some figures that may be helpful to you if you were planning something along that line. In our current statewide institutional campaign, we purchased 226 spots in the Capital District at a cost of \$66,820. Those spots were spread over 8 weeks. Production on a 60 and 30 second spot to be run only in the Capital District could probably be done for about \$10,000. Our spots ran in February and March, which is the most efficient time to buy TV spots. Rates would be higher in the fall. In the summer, the rates may be lower, but not as many people watch TV at that time, so the cost per thousand is in fact higher.

If you need any more information on this subject, please give me a call.

Fraternally,

MICHAEL P. MORAN
Director of Communications

MPM:rtc



STATE OF NEW YORK
 GOVERNOR'S OFFICE OF EMPLOYEE RELATIONS
 AGENCY BUILDING NO. 2
 ALBANY, NEW YORK 12223

*file in
TUFCO*

THOMAS F. HARTNETT
 DIRECTOR

JAMES B. NORTHROP
 EXECUTIVE DEPUTY DIRECTOR
 JOSEPH M. BRESS
 GENERAL COUNSEL

March 26, 1984

Mr. John W. Burke
 Executive Director
 Council 82
 AFSCME, AFL-CIO
 63 Colvin Avenue
 Albany, New York 12206

COUNCIL 82
RECEIVED
 MAR 29 1984
RECEIVED
 AFSCME AFL-CIO

Dear Jack: *Jack*

This is in regard to your letter of March 15, 1984 concerning campaign activities by TUFCO.

I am enclosing a copy of a bulletin which our office will distribute to all State agencies this week on the subject of union campaign activities. This bulletin will be further distributed to all facilities in the Department of Correctional Services.

In addition, the allegations contained in your letter will be investigated by the Department of Correctional Services.

Sincerely,

Tom

Thomas F. Hartnett

*copy
Dally
Dick
Frank
Puma
Brian O'Donnell*

Enclosure

cc: Joseph M. Bress
 Thomas A. Coughlin, III

*3/30/84
 cc: H. Chase, R. Bixchert, F. Benedetto,
 J. Puma, & B. O'Donnell
 @*



STATE OF NEW YORK
GOVERNOR'S OFFICE OF EMPLOYEE RELATIONS
AGENCY BUILDING NO. 2
ALBANY, NEW YORK 12223

THOMAS F. HARTNETT
DIRECTOR


JAMES B. NORTHROP
EXECUTIVE DEPUTY DIRECTOR

JOSEPH M. BRESS
GENERAL COUNSEL

MEMORANDUM

OER-84-3

March 23, 1984

TO: STATE DEPARTMENTS AND AGENCIES
FROM: Thomas F. Hartnett 
SUBJECT: Representation Campaign Activities

State agency officials and employee organizations alike have raised questions concerning employee organization activities during a challenge period under the Taylor Law. The period of unchallenged status for all the employee organizations that are party to contracts with the State expires on August 31, 1984. Accordingly, petitions challenging the incumbent employee organizations may be filed in August of this year.*

Organizational campaigns are subject to the State's policy and guidelines set forth in Section 12 of the Employee Relations Manual. Section 12 provides that the position of the State during any organizational campaign, pre-election period or election period is one of complete neutrality, and establishes limitations on employee organization activity to assure that objective is met and to prevent undue interference with State operations.

While the guidelines contained in Section 12 allow certain organizational activities to take place, including the posting of meeting notices and the placement of manned tables in non-work areas for the distribution of literature, obtaining of signatures, etc., these activities are not permissible until the date recognized by the State as the commencement of the campaign period, May 1.

* This includes UUP despite the June 30, 1985 contract expiration date. See §208.2(a) of the Taylor Law.

Please take whatever steps may be necessary to assure that the activities described in paragraphs 4, 6 and 7 of Section 12 are not permitted before May 1. Any complaints from employee organizations arising in connection with these matters should be handled in accordance with the procedure described in Section 12. Complaints which must be referred to OER or discussed with OER by the agency designee should be referred to the OER Assistant Director responsible for the negotiating unit with which the complaint is concerned.

We will keep you informed of further developments as they occur. If in the meantime you have any questions about these matters, please contact the OER staff member who serves as your agency's liaison.

cc: Jack



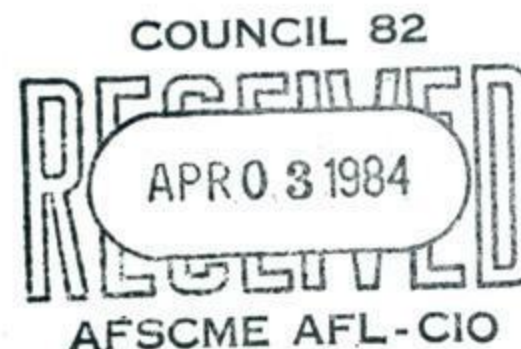
AFSCME®

One Commerce Plaza, Suite 1012, Albany, New York 12210

Telephone: (518) 465-4585

April 2, 1984

Mr. William Welsh
Director, Department of Legislation
AFSCME International
1625 L Street, N.W.
Washington, D.C. 20036



Dear Bill:

The United Federation of Correction Officers (T.U.F.C.O.) is a newly formed independent union comprised of former officers of AFSCME, Council 82. T.U.F.C.O. is currently collecting authorization cards and we anticipate an effort to decertify Council 82 in the correctional system at the next window period.

One of T.U.F.C.O.'s arguments centers around being locally based and not having to send affiliation fees outside of New York. They contend that Council 82 receives nothing from Washington and that the money can be better spent on hiring professional staff in New York.

I would appreciate your assistance in counteracting this argument. We need information and copies of requests handled specifically for AFSCME, Council 82 over the last several years. It would also be useful if you could provide information on activity within your department which has benefited correction officers in general.

Thank you for your assistance. I would appreciate the information by the third week of April, if possible.

Fraternally,

Stephan Fantauzzo
International Union
Area Director

SF:dbw

cc: E. Brickman
H. Teague

*cc H Chase J. Benedetto
O Bischof*

in the public service

bcc: Jack



AFSCME®

One Commerce Plaza, Suite 1012, Albany, New York 12210

Telephone: (518) 465-4585

April 2, 1984

Mr. John Dowling
AFSCME International
1625 L Street, N.W.
Washington, D.C. 20036

Dear John:

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Fraternally,

Stephan Fantauzzo
International Union
Area Director

SF:dbw
cc: E. Brickman
H. Teague

in the public service

bcc: Jack



AFSCME®

One Commerce Plaza, Suite 1012, Albany, New York 12210

Telephone: (518) 465-4585

April 2, 1984

Mr. Philip Sparks
Director of Public Affairs
AFSCME International
1625 L Street, N.W.
Washington, D.C. 20036

Dear Phil:

The United Federation of Correction Officers (T.U.F.C.O.) is a newly formed independent union comprised of former officers of AFSCME, Council 82. T.U.F.C.O. is currently collecting authorization cards and we anticipate an effort to decertify Council 82 in the correctional system at the next window period.

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Fraternally,

Stephan Fantauzzo
International Union
Area Director

SF:dbw

cc: E. Brickman
H. Teague

in the public service

bcc: jack



AFSCME®

One Commerce Plaza, Suite 1012, Albany, New York 12210

Telephone: (518) 465-4585

April 2, 1984

Mr. Robert McGarrah
Public Policy
AFSCME International
1625 L Street, N.W.
Washington, D.C. 20036

Dear Bob:

The United Federation of Correction Officers (T.U.F.C.O.) is a newly formed independent union comprised of former officers of AFSCME, Council 82. T.U.F.C.O. is currently collecting authorization cards and we anticipate an effort to decertify Council 82 in the correctional system at the next window period.

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Fraternally,

Stephan Fantauzzo
International Union
Area Director

SF:dbw

cc: E. Brickman
H. Teague

in the public service



bcc: Jack

AFSCME®

One Commerce Plaza, Suite 1012, Albany, New York 12210

Telephone: (518) 465-4585

April 2, 1984

Mr. Donald Wasserman
Department of Research
AFSCME International
1625 L Street, N.W.
Washington, D.C. 20036

Dear Don:

The United Federation of Correction Officers (T.U.F.C.O.) is a newly formed independent union comprised of former officers of AFSCME, Council 82. T.U.F.C.O. is currently collecting authorization cards and we anticipate an effort to decertify Council 82 in the correctional system at the next window period.

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Fraternally,

Stephan Fantauzzo
International Union
Area Director

SF:dbw

cc: E. Brickman
H. Teague

in the public service

**AXELROD, CORNACHIO, FAMIGHETTI &
CAPETOLA**

98 WILLIS AVENUE
MINEOLA, NEW YORK 11501
Telephone: 516-742-9000

General and Criminal Practice. Labor Law.

MEMBERS OF FIRM

MICHAEL C. AXELROD, born Brooklyn, New York, December 26, 1947; admitted to bar, 1974, New York and Florida; 1975, U.S. Court of Appeals, Second Circuit, U.S. District Court, Southern and Eastern District of New York; 1977, U.S. Supreme Court. *Education:* University of Miami (A.S., 1970); New England School of Law (J.D., 1973); New York University School of Law (LL.M., Labor Law, 1981). Member, Honors Moot Court. Member, "New England Law Review, 1972-1973. Author: "The Airport Cases need for National Uniform Legislation," New England Law Review, Spring 1973. *Member:* Nassau County, New York State and American Bar Associations; The Florida Bar; Nassau Jewish Lawyers Association (President, 1983—).

ANTHONY W. CORNACHIO, born New York, N.Y., September 2, 1942; admitted to bar, 1971, New York, U. S. Court of Appeals, 2nd Circuit and U.S. District Court, Southern and Eastern Districts of New York. *Education:* Fordham University (A.B., 1965); Adelphi University (M.A., 1967); New York Institute of Technology (M.A., in Labor and Industrial Relations, magna cum laude, 1981); St. John's University (J.D., 1971). Assistant District Attorney, Nassau County, 1971-1974. Law Clerk to County Judge, Nassau County, 1974-1976. Deputy Commissioner, Town of Hempstead Planning and Economic Development Department, 1975-1978. Commissioner, Department of Occupational Resources, 1979-1981. *Member:* Nassau County, New York State and American Bar Associations; American Judicature Society; Catholic Lawyers Guild; Columbian Lawyers Association; The Association of Trial Lawyers of America; Former Assistant District Attorney's Association of Nassau County.

JOSEPH P. FAMIGHETTI, born Brooklyn, New York, August 19, 1943; admitted to bar, 1972, New York, U.S. District Court, Eastern and Southern Districts of New York and U.S. Court of Appeals, 2nd Circuit; 1981, U.S. Supreme Court. *Education:* Adelphi University (B.A., 1966; M.B.A., 1968); St. John's University (J.D., 1971). Nassau County Assistant District Attorney, 1972-1974. Law Secretary to County Judge, 1974-1981. *Member:* Nassau County, New York State and American Bar Associations; Catholic Lawyers Guild; Columbian Lawyers Association; The Association of Trial Lawyers of America; Former Assistant District Attorney's Association of Nassau County.

ANTHONY A. CAPETOLA, born Jersey City, New Jersey, October 4, 1945; admitted to bar, 1971, New York. *Education:* Wagner College (B.S., 1967); New York Law School (J.D., 1970). Phi Delta Phi. Assistant District Attorney, Nassau County, 1971-1973. Associate Village Judge, Inc., Village of Bayville, 1973-1976. *Member:* Nassau County, New York State and American Bar Associations; National District Attorneys Association; Columbian

(This Card Continued)

Lawyers Association of Nassau County (President, 1981); The Association of Trial Lawyers of America.

FRANCIS X. CASALE, JR., born Brooklyn, New York; admitted to bar, 1981, New York; 1982, U.S. District Court, Eastern District of New York. *Education:* State University of New York at Albany (B.A., cum laude, 1977); Hofstra University (J.D., 1980). *Member:* Nassau County Bar Association; Columbian Lawyers Association.

ROBERT M. SCHAUFELD, born Brooklyn, New York, February 2, 1956; admitted to bar, 1982, New York and U.S. District Court, Eastern and Southern Districts of New York; 1983, U.S. Court of Appeals, Second Circuit; U.S. Tax Court, U.S. Court of Appeals for the Federal Circuit and U.S. Court of International Trade. *Education:* Brandeis University (B.A., 1978); Hofstra University (J.D., 1981). *Member:* Nassau County, New York State and American Bar Associations; Jewish Lawyers Association.

FRANK A. DODDATO, born Brooklyn, New York, June 8, 1949; admitted to bar, 1974, New York; 1975, U.S. District Courts, Southern and Eastern Districts of New York. *Education:* Fordham University (B.A., 1970); Brooklyn Law School (J.D., 1973). Assistant District Attorney, 1974-1981. Deputy Bureau Chief, Rackets Bureau of Nassau County District Attorney's Office, 1981. *Member:* Nassau County and American Bar Associations; Columbian Lawyers Association of Nassau County; New York State Defenders Association; Former Assistant District Attorney's Association of Nassau County.

JUDITH P. DUGAN, born Fairfax, South Carolina, September 13, 1952; admitted to bar, 1981, New York and U.S. District Court, Eastern District of New York. *Education:* University of South Carolina (B.A., 1974); New York Law School (J.D., 1980). Assistant District Attorney, Nassau County, 1981-1983. Assistant District Attorneys Association, Eastern District of New York, 1982. *Member:* Nassau County Bar Association; New York State Defenders Association; Nassau County Women's Bar Association.

JAMES S. PAAR, born Queens, New York, August 31, 1953; admitted to bar, 1981, New York; 1983, U.S. District Court, Eastern and Southern Districts of New York. *Education:* Dartmouth College (B.A., 1975); New York Law School (J.D., 1980).

OF COUNSEL

RICHARD HARTMAN, born New York, N.Y., August 5, 1940; admitted to bar, 1965, New York; 1969, U.S. Supreme Court, U.S. Court of Military Appeals and U.S. Claims Court. *Education:* Massachusetts Institute of Technology; New York Law School (LL.B., 1965). Assistant District Attorney, Nassau County, 1966-1968. *Member:* Nassau County and New York State Bar Associations.

REPRESENTATIVE CLIENTS: Nassau County Patrolman's Benevolent Assn.; Metropolitan Police Conference, Inc.; Yonkers Patrolman's Benevolent Assn.; Port Authority of New York and New Jersey Patrolman's Benevolent Assn.; Adjunct Faculty Association Nassau County Community College.

The United Federation of Correction Officers, Inc.

BOARD OF DIRECTORS

DENNIS J. FITZPATRICK
JAMES P. MORRISEY
KEVIN W. CASEY
BRUCE J. FARRELL
MARION L. DANTZLER



P. O. BOX 72
HUDSON FALLS, NEW YORK
12839
(518) 792-3535

April 2, 1984

Dear Richard;

I appologize for the delay in responding to your certified letter dated March 19, 1984. I would like to point out a simple request would have surficed. Our Books and By-Laws are open to all members upon their request. Enclosed you will find the documents desired. If you feel more information is needed, Please drop a line.

Fraternally,

Dennis Fitzpatrick
Chairman

4-9-84

cc: H. Chase

F. Benedetto

J. Bischert

J. Puma

Herbach Kahn Warlin

Minutes
and
By Laws

OF

THE UNITED FEDERATION OF CORRECTION OFFICERS,
INC.

A NOT-FOR-PROFIT CORPORATION
INCORPORATED UNDER THE LAWS OF
THE STATE OF NEW YORK

LAW OFFICES
OF

Jeffrey H. Brozyna
313 Washington Avenue
Albany, New York 12206

RICHARD E. CARRINGTON
904 Chamberlain Street
Elmira, NY 14904

BYLAWS OF
THE UNITED FEDERATION OF CORRECTION OFFICERS, INC.
A NOT-FOR-PROFIT CORPORATION

ARTICLE I. OFFICES

Section One. Principal office. The principal office of the corporation in the State of New York shall be located in the Village of Hudson Falls, County of Washington.

Section Two. Other offices. The corporation may have such other offices, either within or without the County of Washington, State of New York, as the board of directors may determine or as the affairs of the corporation may require from time to time.

ARTICLE II. MEMBERS

Section One. Eligibility. Membership in the corporation shall be open to all security personnel employed by the State of New York below the rank of captain.

Section Two. Application for membership. Application for membership shall be made on such forms as shall be specified by the board of directors. Membership fees and annual dues shall be set by the board of directors from time to time as they see fit.

Section Three. Voting rights. Each member shall be entitled to one vote on each matter submitted to a vote of the members.

Section Four. Termination of membership. The board of directors, by affirmative vote of three-fifths of all the members of the board, may suspend or expel a member for cause after an appropriate hearing, and, by a majority vote of those present at any regularly constituted meeting, may terminate the membership of any member who becomes ineligible for membership, or suspend or expel any member who shall be in default in the payment of dues for the period fixed in these bylaws.

2

Section Five. Resignation. Any member may resign by filing a written resignation with the secretary, but such resignation shall not relieve the member so resigning of the obligation to pay any dues, assessments, or other charges theretofore accrued and unpaid.

Section Six. Reinstatement. On written request signed by a former member and filed with the secretary, the board of directors, by the affirmative vote of two-thirds of the members of the board, may reinstate such former member to membership on such terms as the board of directors may deem appropriate.

Section Seven. Transfer of Membership. Membership in this corporation is not transferable (or assignable).

ARTICLE III. LOCAL LODGES

The Board of Directors shall have the power, through a majority vote of the board of directors in a special meeting, or in the annual meeting, to create local lodges that will operate within the framework of the corporation and its bylaws.

A. Formation. One-hundred or more individuals who are members of, or eligible for membership in the corporation may apply for a charter as a local lodge and on receipt of a charter shall constitute a local lodge.

B. Application and fee. Applications for charters shall be made to the secretary. They shall be accompanied by the sum of \$100.00 as a charter fee. On approval of the application by the board of directors, a duly executed charter, containing such provisions as the Board of Directors may prescribe, shall be delivered to the applicants, together with such other initial supplies as may be necessary.

3

C. Powers and duties. A local lodge shall carry out the objectives, policies, and decisions of the corporation. A lodge shall organize and recruit members for it and the corporation, publicize benefits offered by the corporation and related trusts, and do other acts consistent with these bylaws.

D. Local lodge bylaws, Subject to the continuing approval of the Board of Directors, each lodge may adopt bylaws for its government. These bylaws shall not be inconsistent with the provisions of these bylaws. Such bylaws for each lodge, subject to the continuing approval of the Board of Directors, shall provide, among other things, for regular periodic meetings. In the event of a conflict between the bylaws of the lodge, and these bylaws, these bylaws shall be controlling.

E. Dissolution, merger, or reorganization of lodges. The Board of Directors, by a majority vote, may consolidate two or more lodges, or may reorganize or dissolve any lodge, or may amend the charter or jurisdiction of any lodges. Otherwise, no lodge shall be dissolved so long as 80% of its members object to its dissolution at a meeting called to consider the question.

F. Lodge officers and board. Each lodge shall elect the following officers annually by majority of those members voting, a president, a vice-president, and a secretary-treasurer and a lodge board of directors of such number of its members as may be provided by its bylaws.

1. Lodge Board of Directors shall be the highest governing authority within the lodge between membership meetings.

It shall exercise general supervision over its property and affairs. It shall have such further powers as are necessary or appropriate to effectuate the powers granted to it by these bylaws. (A majority) of the members of the board shall constitute a quorum for the transaction of business, and decisions of the board shall be by (majority) vote.

2. The other powers and duties of the officers of the lodge shall be as provided in local bylaws.

G. A lodge must be approved and certified by the board prior to 60 days before an annual meeting in order to vote at said meeting.

ARTICLE IV. MEETINGS; QUORUM

There shall be an annual meeting of the corporation to be held not later than November 30 of each year, at a time and place designated by the Board of Directors. The Board of Directors shall determine the time and place of each annual meeting and shall notify the membership at least two months prior to that annual meeting. One-third of the member lodges represented at such meeting shall constitute a quorum at any meeting.

Other meetings may be called by the President with the concurrence of the Board of Directors, at such times and places as the President and said Board may designate; and shall be called when requested by at least eight member lodges. Written notice of a special meeting of the corporation shall be mailed to each member lodge at least 14 days prior to date of the meeting, and such notice shall set forth the time and place of the meeting,

together with a statement of the purpose or purposes of the meeting. Such special meeting shall act only respect of the stated purpose or purposes of the meeting.

ARTICLE V. DELEGATES AND VOTES

Each lodge may send as many of its members to meetings of the corporation as it chooses, but only one of such number may be designated as the official delegate entitled to vote. All other lodge members attending shall have the right of discussion. At the annual meeting people who do not presently belong to member lodges shall be permitted to speak only at the pleasure of the presiding officer.

Any question except that of the election of officers may be submitted by the President and Board of Directors to the members, and the votes thereon of the members may be taken by mail. Ballots shall be prepared and sent to all members, and such ballots shall be returned to the President on or before a day specified. Said ballots shall be opened and counted by the President and one other member of the corporation designated by the President for such purpose, at noon on the day following the last day for receiving ballots, and the result shall be reported forthwith to the President. The majority of the votes received on any resolution other than an amendment to these Bylaws shall determine that resolution.

ARTICLE VI. BOARD OF DIRECTORS

Section One. General Powers. The affairs of the corporation shall be managed by its board of directors. Directors need not be members of the corporation.

Section Two. Number, Tenure, and Qualifications. The number of directors shall be five. Each director shall hold office for five years and until his successor shall have been elected and qualified.

Section Three. Regular Meetings. A regular annual meeting of the board of directors shall be held without other notice than this bylaw, immediately after, and at the same place, as the annual meeting of members. The board of directors may provide by resolution the time and place, either within or without the State of New York, for the holding of additional regular meetings of the board without other notice than such resolution.

Section Four. Special Meetings. Special meetings of the board of directors may be called by or at the request of the president or any two directors. The person or persons authorized to call special meetings of the board may fix any place, either within or without the state as the place for holding any special meeting of the board called by them.

Section Five. Notice. Unless a director signs a waiver of notice, notice of any special meeting of the board of directors shall be given at least ten days previously thereto by written notice delivered personally or sent by mail or telegram to each director at his address as shown by the records of the corporation. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail in a sealed envelope so addressed, with postage thereon prepaid. If notice be given by telegram, such notice shall be deemed to be delivered when the telegram is delivered to the telegraph company. Any director

may waive notice of any meeting. The attendance of a director at any meeting shall constitute a waiver of notice of such meeting, except where a director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. The business to be transacted at the meeting need not be specified in the notice or waiver of notice of such meeting, unless specifically required by law or by these bylaws.

Section Six. Quorum. A majority of the board of directors shall constitute a quorum for the transaction of business at any meeting of the board; but if less than a majority of the directors are present at said meeting, a majority of the directors present may adjourn the meeting from time to time without further notice.

Section Seven. Manner of Acting. (a) The act of a majority of the directors present at a meeting at which a quorum is present shall be the act of the board of directors, unless the act of a greater number is required by law or by these bylaws. (b) Notwithstanding the provisions of paragraph a, above, any action required or permitted to be taken by the Board of any Committee thereof may be taken, by conference call, or without a meeting if all the members of the Board or the Committee consent in writing to the adoption of a resolution authorizing the action. The resolution and the written consents thereto shall be filed with the minutes of the proceedings of the Board or Committee.

Section Eight. Vacancies. Any vacancy occurring in the board of directors shall be filled by the affirmative vote of a majority of the remaining directors though less than a quorum of the board of directors. A director elected to fill a vacancy shall be elected for the unexpired term of his predecessor in office.

The members will not have the power to expand the number of the board of directors beyond five.

Section Nine. Compensation. Directors may receive reasonable stated salaries for their services, and by resolution of the board of directors any director may be indemnified for expenses and costs, including attorneys' fees, actually and necessarily incurred by him in connection with any claim asserted against him, by action in court or otherwise, by reason of his being or having been such director, except in relation to matters as to which he shall have been guilty of negligence or misconduct in respect of the matter in which indemnity is sought.

ARTICLE VII. OFFICERS

Section One. Officers. The officers of the corporation shall be a president, one or more vice-presidents, including an executive vice-president (the number of vice-presidents, determined by the board of directors), a secretary, a treasurer, and such other officers as may be elected in accordance with the provisions of this article. The board of directors may elect or appoint such other officers, including one or more assistant secretaries, and one or more assistant treasurers, as it shall deem desirable, such officers to have the authority and perform the duties prescribed, from time to time, by the board of directors. Any two or more offices may be held by the same person, except the offices

of president and secretary.

Section Two. Election and Term of Office. The officers of the corporation shall be elected annually by the board of directors at the regular annual meeting of the board of directors. If the election of officers shall not be held at such meeting, such election shall be held as soon thereafter as conveniently may be. New offices may be created and filled at any meeting of the board of directors. Each officer shall hold office until his successor shall have been duly elected and shall have been qualified.

Section Three. Removal. Any officer elected or appointed by the board of directors may be removed by the board of directors whenever in its judgment the best interests of the corporation would be served thereby but such removal shall be without prejudice to the contract rights, if any, of the officer so removed.

Section Four. Vacancies. A vacancy in any office, because of death, resignation, removal, disqualification, or otherwise, may be filled by the board of directors for the unexpired portion of the term.

Section Five. President. The president shall be the principal executive officer of the corporation and shall, in general, supervise and control all of the business and affairs of the corporation. He shall preside at all meetings of the members and of the board of directors. He may sign, with the secretary or any other proper officer of the corporation authorized by the board of directors, any deeds, mortgages, bonds, contracts, or other instruments that the board of directors have authorized to be executed except in cases where the signing and execution thereof shall be expressly delegated by the board of directors

or by these bylaws or by statute to some other officer or agent of the corporation; and, in general, he shall perform all duties incident to the office of president and such other duties as may be prescribed by the board of directors from time to time.

Section Six. Vice-President. In the absence of the president or in event of his inability or refusal to act, the executive vice-president shall perform the duties of the president, and when so acting, shall have all the powers of and be subject to all the restrictions on the president. Any vice-president shall perform such other duties as from time to time may be assigned to him by the president or by the board of directors.

Section Seven. Treasurer. If required by the board of directors, the treasurer shall give a bond for the faithful discharge of his duties in such sum and with such surety or sureties as the board of directors shall determine. He shall have charge and custody of and be responsible for all funds and securities of the corporation; receive and give receipts for moneys due and payable to the corporation from any source whatsoever, and deposit all such moneys in the name of the corporation in such banks, trust companies, or other depositories as shall be selected by the board of directors; and, in general, perform all the duties incident to the office of treasurer and such other duties as from time to time may be assigned to him by the president or by the board of directors.

Section Eight. Secretary. The secretary shall keep the minutes of the meetings of the members and of the board of directors

in one or more books provided for that purpose; see that all notices are duly given in accordance with the provisions of these bylaws or as required by law; be custodian of the corporate records and of the seal of the corporation and see that the seal of the corporation is affixed to all documents, the execution of which on behalf of the corporation under its seal is duly authorized in accordance with the provisions of these bylaws; keep a register of the post-office address of each member which shall be furnished to the secretary by such member; and, in general perform all duties incident to the office of secretary and such other duties as from time to time may be assigned to him by the president or by the board of directors.

Section Nine. Assistant Treasurers and Assistant Secretaries.

If required by the board of directors, the assistant treasurers shall give bonds for the faithful discharge of their duties in such sums and with such sureties as the board of directors shall determine. The assistant treasurers and assistant secretaries, in general, shall perform such duties as shall be assigned to them by the treasurer or the secretary or by the president or the board of directors.

ARTICLE VIII. COMMITTEES

Section One. Committees. Such committees (not having and exercising the authority of the board of directors in the management of the corporation) may be designated by a resolution adopted by a majority of the directors present at a meeting at which a quorum is present. Except as otherwise provided in such resolution, members of each such committee shall be members of the corporation.

and the president of the corporation shall appoint the members thereof. Any member thereof may be removed by the person or persons authorized to appoint such member whenever in their judgment the best interests of the corporation shall be served by such removal.

Section Two. Term of Office. Each member of a committee shall continue as such until the next annual meeting of the members of the corporation and until his successor is appointed, unless the committee shall be sooner terminated, or unless such member be removed from such committee, or unless such member shall cease to qualify as a member thereof.

Section Three. Chairman. One member of each committee shall be appointed chairman by the person or persons authorized to appoint the members thereof.

Section Four. Vacancies. Vacancies in the membership of any committee may be filled by appointments made in the same manner as provided in the case of the original appointments.

Section Five. Quorum. Unless otherwise provided in the resolution of the board of directors designating a committee, a majority of the whole committee shall constitute a quorum and the act of a majority of the members present at a meeting at which a quorum is present shall be the act of the committee.

Section Six. Rules. Each committee may adopt rules for its own government not inconsistent with these bylaws or with rules adopted by the board of directors.

ARTICLE IX. INDEMNIFICATION

Section One. In General. The Corporation shall indemnify each member of its Board, each of its officers, each of its employees designated for indemnification by the Board; and each person serving at the request of the Corporation as a trustee, director, officer or member of another corporation, partnership, joint venture, trust or other enterprise, (hereinafter all referred to more generally as "directors and officers") for the defense of civil or criminal actions or proceedings and, notwithstanding any provision in these bylaws, in a manner and to the fullest extent now or hereafter permitted by law.

Section Two. Non-Derivative Action. In the case of an action, whether civil or criminal, other than one by or on behalf of the Corporation to procure a judgment in its favor, the Corporation shall indemnify each of its directors and officers, as aforesaid, from and against any and all judgments, fines, amounts paid in settlement, and reasonable expenses, including attorneys' fees, actually and necessarily incurred as a result of such action or any appeal therefrom, where such costs and expenditures shall have been imposed or asserted against such director or officer by reason of his or her being or having been a director or officer, but only in the event that a determination shall have been made, either judicially or in the manner hereinafter provided, that such director or officer acted in good faith for a purpose which he or she reasonably believed to be in the best interests of the

Corporation and, in the case of a criminal action, in addition, had no reasonable cause to believe that his or her conduct was unlawful. This indemnification shall be made only if the Corporation shall be advised by its Board that the director or officer has met the aforestated standard of conduct. In rendering such advice, the Board shall act either (1) by a quorum consisting of directors who are not parties to such action, or (2), if a quorum under "(1)" is not obtainable with due diligence, upon the opinion in writing of independent legal counsel.

If the foregoing determination is to be made by the Board, it may rely, as to all questions of law, on the advice of independent legal counsel.

Section Three. Derivative Action. In the case of an action, whether civil or criminal, by or on behalf of the Corporation to procure a judgment in its favor, the Corporation shall indemnify each of its directors and officers, as aforesaid, from and against the reasonable expenses, including attorneys' fees, actually and necessarily incurred by any such director or officer in connection with an appeal therefrom, except with respect to matters as to which such director or officer is adjudged, pursuant to the method described in Section Two hereof, to have breached his or her duty to the Corporation by not discharging his or her obligations to the Corporation in good faith and with that degree of diligence, care and skill which ordinarily prudent men would exercise under similar circumstances in like positions. However, as regards an action described in this Section Three, no indemnification shall be made by the Corporation for amounts paid in settling or otherwise disposing of a threatened or pending action or for expenses

incurred in defending either a threatened action or a pending action which is settled or otherwise disposed of without court approval.

Section Four. Applicability. Every reference in this Article to a member of the Board or an officer of the Corporation shall include every director and officer thereof or former director and officer thereof. This indemnification provision shall apply to all the judgments, fines, amounts in settlement, and reasonable expenses, whenever arising, allowable as described above. The right of indemnification herein provided for shall be in addition to any and all rights to which any director or officer of the Corporation otherwise might be entitled, and the provisions hereof shall neither impair nor adversely affect such rights.

ARTICLE X. CONTRACTS, CHECKS, DEPOSITS AND FUNDS

Section One. Contracts. The board of directors may authorize any officer or officers, agent or agents of the corporation, in addition to the officers so authorized by these bylaws, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the corporation, and such authority may be general or confined to specific instances. However, said contractual terms shall not be disadvantageous to the corporation or be contrary to the corporate purpose.

Section Two. Checks, Drafts, or Orders for Payment. All checks, drafts, or orders for the payment of money, notes, or other evidences of indebtedness issued in the name of the corporation shall be signed by such officer or officers, agent or agents of the corporation and in such manner as shall from time to time be determined by resolution of the board of directors. In the absence of such determination by the board of directors,

) such instruments shall be signed by the treasurer or an assistant treasurer and countersigned by the president or a vice-president of the corporation.

Section Three. Deposits. All funds of the corporation shall be deposited from time to time to the credit of the corporation in such banks, trust companies, or other depositories as the board of directors may select.

Section Four. Gifts. The board of directors may accept on behalf of the corporation any contribution, gift, bequest, or devise for the general purposes, or for any special purpose, of the corporation.

ARTICLE XI. CERTIFICATES OF MEMBERSHIP

) Section One. Certificate of Membership. The board of directors may provide for the issuance of certificates evidencing membership in the corporation, which shall be in such form as may be determined by the board. Such certificates shall be signed by the president or a vice-president and by the secretary or an assistant secretary and shall be sealed with the seal of the corporation. All certificates evidencing membership of any class shall be consecutively numbered. The name and address of each member and the date of issuance of the certificate shall be entered on the records of the corporation. If any certificate shall become lost, mutilated, or destroyed, a new certificate may be issued therefor on such terms and conditions as the board of directors may determine.

) Section Two. Issuance of Certificates. When a member has been elected to membership and has paid any initiation fee and dues that may then be required, a certificate of membership shall be issued

14

17
in his name and delivered to him by the secretary.

ARTICLE XII. DUES

Section One. Annual Dues. The board of directors may determine from time to time the amount of initiation fee, if any, and annual dues payable to the corporation by members. There shall be one class of members.

Section Two. Payment of Dues. Dues shall be payable in advance of the first day of October in each fiscal year. Dues of a new member shall not be prorated.

Section Three. Default and Termination of Membership. When any member shall be in default in the payment of dues for a period of two months from the beginning of the fiscal year or period in which such dues become payable, his membership may thereupon be terminated by the board of directors in the manner provided in these bylaws.

ARTICLE XIII. MISCELLANEOUS

Section One. Books and Records. The corporation shall keep correct and complete books and records of account and shall also keep minutes of the proceedings of its members, board of directors, and committees having any of the authority of the board of directors, and shall keep at the office a list or record containing the names and addresses of all members, and the date when they respectively became the holders of record thereof.

Section Two. Fiscal Year. The fiscal year of the corporation shall end on the last day of November in each year.

Section Three. Corporate Seal. The board of directors shall provide a corporate seal.

Section Four. Waiver of Notice. Whenever any notice is required to be given under the provisions of the New York Not-For-Profit Corporation Law or under the provisions of the certificate of incorporation or the bylaws of the corporation, a waiver thereof in writing signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice.

ARTICLE XIV. AMENDMENTS

Section One. Power of Members to Amend Bylaws. The bylaws of this corporation may be amended, repealed, or added to, or new bylaws may be adopted by the vote or written assent of 85 percent of the members entitled to vote or by the vote of 85 percent of a quorum at a meeting duly called for the purpose according to the certificate of incorporation or bylaws.

ARTICLE XV. VOLUNTARY EMPLOYEE BENEFIT ASSOCIATION

The board of directors through whatever officers or employees it deems proper, shall have all necessary powers to implement a Voluntary Employee Benefit Association, a Trust qualifying under Internal Revenue Code 501 (c) (9) for the benefit of its members. The board of directors shall appoint the trustee and council members for said 501 (c) (9) trust by majority vote to serve such terms of office as the directors shall decide.

18

ARTICLE XVI.

The corporation may provide life, sick, accident or other benefits to its members, or their dependents as the Board of Directors may direct, so as to qualify under Internal Revenue Code Section 501 (c) (8).

ARTICLE XVII.

MISCELLANEOUS PROVISIONS REGARDING CREATION OF THE CORPORATION

The incorporator of the corporation shall appoint the initial five members of the board of directors who shall serve five year terms of office. Also, if local lodges are not yet in existence, individual members in the corporation may exercise their vote at any meeting on a one-man one-vote basis.

Certificate of Incorporation

Of

The United Federation of Correction Officers, Inc.

Under Section 402 of the Not-For-Profit Corporation Law

The undersigned, for the purpose of forming a corporation under Section 402 of the Not-For-Profit Corporation Law of the State of New York do hereby adopt the following certificate of incorporation for such corporation.

ARTICLE I

The name of the corporation is The United Federation of Correction Officers, Inc. The corporation is a corporation as defined in Subparagraph (a) (5) of Section 102 (definitions) of the Not-For-Profit Corporation Law.

ARTICLE II

The corporation has not been formed for pecuniary profit or financial gain, and no part of the assets, income or profit of the corporation is distributable to, or inures to the benefit of, its directors or officers, members, or any private individual, except that reasonable compensation may be paid for services rendered to or for the corporation affecting one or more of its purposes, and except to the extent permitted under the Not-For-Profit Corporation Law.

ARTICLE III

The purposes for which the corporation is to be formed are to provide for the mutual fraternal, social, cultural, moral and

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intellectual and other forms of benefit, advancement and welfare of its members, and to do any and all things necessary and proper to further the foregoing purposes, but not for the pecuniary profit or financial gain of its members, directors or officers, except that reasonable compensation may be paid for services rendered to or for the corporation affecting one or more of its purposes, and except as permitted by the Not-For-Profit Corporation Law.

ARTICLE IV

In addition to the foregoing corporate purposes, the corporation shall have the power to operate a system of local lodges, and shall have all of the general powers set forth in Section 202 of the Not-For-Profit Corporation Law.

ARTICLE V

The corporation is a "Type A" corporation as defined by Section 201 of the Not-For-Profit Corporation Law.

ARTICLE VI

The office of the corporation is to be located in the village of Hudson Falls, in Washington County, New York.

ARTICLE VII

The territory in which the corporation's activities are principally to be conducted is the State of New York.

ARTICLE VIII

~~There shall be five individuals on the Board of Directors,~~
each of whom is of the age of eighteen (18) years of age, or older.

Said directors shall serve for terms of five (5) years, and their successors shall be selected and shall serve as provided in the bylaws.

ARTICLE IX

The New York Secretary of State is hereby designated as an agent of the corporation upon whom process against it may be served. The Secretary of State shall mail a copy of any such process,] to Dennis J. Fitzpatrick, 10 First Street, Edison Falls, New York 12839.

ARTICLE X

In the event of dissolution, all of the remaining assets and property of the corporation shall, after payment of any contractual and trust obligations, be distributed to such organizations as may qualify under Section 501 (c) (3) of the Internal Revenue Code of 1954, as amended, subject to an order of a Justice of the Supreme Court of the State of New York.

ARTICLE XI

No approvals or consents are required by law.

IN WITNESS WHEREOF, this certificate has been signed by
the subscriber (as incorporator) this 2nd day of December, 1982.

Signed: Jeffrey H. Brozyna
Jeffrey H. Brozyna

Address: Box 306 R.D. #5 Currybush Road
Schenectady, New York 12306

STATE OF NEW YORK
COUNTY OF ALBANY SS:

On this 2nd day of December, 1982, before me personally
came Jeffrey H. Brozyna to me known and known to me to be the
person described in and who executed the foregoing certificate
of incorporation and he duly acknowledged to me that he executed
the same.

Michael Better
Notary Public

L. MICHAEL BETTER
Notary Public, State of New York
Certified in Albany County
My Commission Expires March 30, 1983

STATE OF NEW YORK

SS: VERIFICATION

COUNTY OF ALBANY

Jeffrey H. Brozyna, being duly sworn, deposes and says that he is the incorporator of the within Not-For-Profit Corporation, that he has read the foregoing certificate of incorporation, and knows the contents thereof; that the same is true to his own knowledge, except as to matters based on information and belief.

Jeffrey H. Brozyna
Jeffrey H. Brozyna

Sworn to before me this
2nd day of November, 1982.

Michael Better
Notary Public

MICHAEL BETTER
Notary Public, State of New York
Qualified in Albany County
Commission Expires March 30, 1983

5

State of New York
Court, County of

Index No.
Year 19

6

CERTIFICATE OF INCORPORATION

OF

THE UNITED FEDERATION OF CORRECTION OFFICERS, INC.

UNDER SECTION 402 OF THE NOT-FOR-PROFIT CORPORATION LAW

000325

STATE OF NEW YORK
DEPARTMENT OF STATE

FILED

CLERK OF COURT
COUNTY OF ALBANY
ALBANY, N.Y.

Filed by:

Jeffrey H. Brozyna Esq.
Office and Post Office Address
313 Washington Avenue
Albany, New York 12206
(518) 465-3352

is hereby admitted

Due and timely service of a copy of the within

Dated:

Attorney(s) for

(NOTICE OF ENTRY)

Sir:—Please take notice that the within is a true copy of a

duly entered in the office of the clerk of the within named court on

.19

(NOTICE OF SETTLEMENT)

Sir:—Please take notice that an order of which the within is a true copy will be presented for settlement to the
one of the judges of the within named Court.

Hon.

at

on the day of

19

at

M.

Dated.

Yours, etc.

To

Attorney(s) for

Office and Post Office Address

DEC 3 3 34 AM '82

DEC 2 1 14 PM '82

FILED

102958

Certificate Number

00712

THIS CERTIFICATE IS
NON-TRANSFERABLE

A NOT-FOR-PROFIT CORPORATION INCORPORATED UNDER THE LAWS OF THE STATE OF NEW YORK

The United Federation of Correction Officers, Inc.

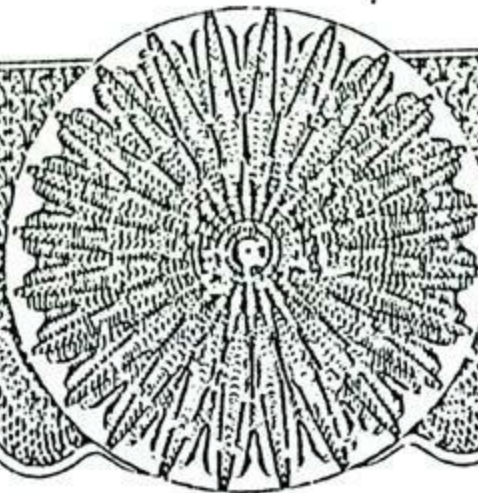
MEMBERSHIP CERTIFICATE

THIS IS TO CERTIFY that.....RICHARD A. CURKENDALL.....is a member of the above corporation incorporated under the laws of this state and is entitled to the full benefits and privileges of such membership, subject to the duties and obligations, as more fully set forth in the Corporation's By-Laws, Rules and Regulations.

IN WITNESS WHEREOF, the Corporation has caused this certificate to be executed by its duly authorized officers and its corporate seal to be hereunto affixed.

Dated 6/9/83

Kenneth Casey
SECRETARY



Baron J. Thompson
PRESIDENT

THE UNITED FEDERATION
OF CORRECTION OFFICERS, INC.
REVIEWED FINANCIAL STATEMENTS
SEPTEMBER 30, 1983

TABLE OF CONTENTS

	<u>Page</u>
Accountants' Review Report.....	1
Statement of Assets, Liabilities and Fund Balance at September 30, 1983.....	2
Statement of Income, Expenses and Changes In Fund Balance For The Short Year Ended September 30, 1983	3
Statement of Changes In Financial Position For The Short Year Ended September 30, 1983.....	4
Notes To Financial Statements.....	5-6

ARTHUR PLACE
& COMPANY, P.C.

CERTIFIED PUBLIC ACCOUNTANTS
THE ARGUS BUILDING • BROADWAY AT BEAVER
ALBANY, N.Y. 12207 (518) 462-5671

To The Board of Directors
The United Federation of Correction Officers, Inc.
PO Box 72
Hudson Falls, New York 12839

We have reviewed the accompanying statements of assets, liabilities and fund balance of The United Federation of Correction Officers, Inc. as of September 30, 1983 and the related statements of income, expenses, fund balance, and changes in financial position for the short year then ended, in accordance with standards established by the American Institute of Certified Public Accountants. All information included in these financial statements is the representation of the Board of Directors of The United Federation of Correction Officers, Inc.

A review consists principally of inquiries of the organization's personnel and analytical procedures applied to financial data. It is substantially less in scope than an examination in accordance with generally accepted auditing standards, the objective of which is the expression of an opinion regarding the financial statements taken as a whole. Accordingly, we do not express such an opinion.

Based on our review, we are not aware of any material modifications that should be made to the accompanying financial statements in order for them to be in conformity with generally accepted accounting principles.

Arthur Place & Company, PC

Albany, New York
January 27, 1984

THE UNITED FEDERATION OF CORRECTION OFFICERS, INC.

STATEMENT OF ASSETS, LIABILITIES AND FUND BALANCE

SEPTEMBER 30, 1983

ASSETS

Current Assets:

Cash In Bank.....	\$	3,777
Prepaid Concert Expenses..... (NOTE 2)		<u>6,677</u>

Total Current Assets 10,454

Other Assets:

Organization Costs - Net..... (NOTE 1)		<u>1,579</u>
--	--	--------------

Total Other Assets 1,579

TOTAL ASSETS \$ 12,033

LIABILITIES AND FUND BALANCE

LIABILITIES

Current Liabilities:

Accounts Payable.....	\$	4,213
Accrued Salaries Payable.....		2,700
Member Premiums Collected.....		1,687
Advance Concert Receipts		
Collected..... (NOTE 2)		6,385
Unearned Membership Dues..... (NOTE 3)		2,875
Loan Payable..... (NOTE 4)		<u>1,500</u>

Total Liabilities 19,360

Fund Balance (Deficit)..... 7,327-

TOTAL LIABILITIES AND FUND BALANCE (DEFICIT) \$ 12,033

See Accountants' Review Report and
Accompanying Notes To Financial Statements

Page 2 of 6

THE UNITED FEDERATION OF CORRECTION OFFICERS, INC.
STATEMENT OF INCOME, EXPENSES AND CHANGES IN FUND BALANCE
FOR THE SHORT YEAR ENDED SEPTEMBER 30, 1983
(JANUARY 1, 1983 - SEPTEMBER 30, 1983)

Income:

Membership Dues.....(NOTE 3)	\$ 8,625
Motor Club Commissions.....	1,006
Disability Registration Fees.....	550
T-Shirt Sales.....	321
Donations.....	240
Interest Income.....	147
Miscellaneous Income.....	27

Total Income 10,916

Expenses:

Vacation Packages and Other	3,854
Promotional Expenses.....	3,374
Travel.....	2,700
Clerical Wages.....	1,795
Telephone.....	1,621
Postage.....	1,371
Office Supplies.....	1,350
Accounting and Legal.....	804
Meetings Expense.....	355
Printing.....	279
Amortization.....	240
Bank Service Charges.....	221
Motor Club Deposit Forfeitures.....	112
Advertising.....	103
Surety Bond.....	64
Contributions.....	-----

Total Expenses -----
13,243

(Excess of Expenses Over Revenue) 7,327-

Fund Balance - Beginning of Year -----
-

FUND BALANCE (DEFICIT) - END OF YEAR \$ -----
7,327-

See Accountants' Review Report and
 Accompanying Notes To Financial Statements

THE UNITED FEDERATION OF CORRECTION OFFICERS, INC.

STATEMENT OF CHANGES IN FINANCIAL POSITION

FOR THE SHORT YEAR ENDED SEPTEMBER 30, 1983

(JANUARY 1, 1983 - SEPTEMBER 30, 1983)

Funds Used:

Excess of Expenses Over Revenue.....	\$	7,327
Less: Charges Against Income Not Requiring An Outlay of Funds:		
Amortization of Organization Costs..		<u>279</u>
Funds Used By Operations		7,048
Increase In Organization Costs.....		<u>1,858</u>
TOTAL FUNDS USED	\$	<u><u>8,906</u></u>

Changes In Working Capital:

Increase In Current Assets:

Cash In Bank.....	\$	3,777
Prepaid Concert Expenses.....		<u>6,677</u>
Net Increase In Current Assets		10,454

Increase In Current Liabilities:

Accounts Payable.....		4,213
Salaries Payable.....		2,700
Member Premiums Collected.....		1,687
Advance Concert Receipts Collected.....		6,385
Unearned Membership Dues.....		2,875
Loan Payable.....		<u>1,500</u>

Net Increase In Current Liabilities		<u>19,360</u>
DECREASE IN WORKING CAPITAL	\$	<u><u>8,906</u></u>

See Accountants' Review Report and
Accompanying Notes To Financial Statements

THE UNITED FEDERATION OF CORRECTION OFFICERS, INC.

NOTES TO FINANCIAL STATEMENTS

SEPTEMBER 30, 1983

NOTE 1: Summary of Significant Accounting Policies

Description of Organization - The United Federation of Correction Officers, Inc. is a fraternal benefit association incorporated under the State of New York not-for-profit law. The organization provides its members with the opportunity to participate in life insurance, disability insurance, and motor club programs at group rates. The organization is operated under a system of local lodges.

Accrual Basis of Accounting - The books of account are kept on the accrual basis, whereby revenue and expenses are recorded when earned and incurred, respectively.

Tax Status - The United Federation of Correction Officers, Inc. has received a determination letter dated January 4, 1984 that it is exempt from Federal income tax under Section 501(c)8 of the Internal Revenue Code.

Organization Costs - This account represents the costs of starting and developing this fraternal organization. These costs are being amortized over five years. Amortization expense charged to operations for 1983 were \$279.

NOTE 2: Prepaid Concert Expenses and Advance Concert Receipts Collected

It is the policy of the organization to defer advance expenses and revenues that relate to the October 1983 concert until the concert is concluded. The net income from this fund raising event will be recognized in the next fiscal year.

NOTE 3: Unearned Membership Dues

Amounts collected for membership dues are initially recorded as unearned membership dues and are subsequently reflected in operating revenue over the applicable membership period.

See Accountants' Review Report

Page 5 of 6

THE UNITED FEDERATION OF CORRECTION OFFICERS, INC.

NOTES TO FINANCIAL STATEMENTS

SEPTEMBER 30, 1983

NOTE 4: Loan Payable

This account represents an unsecured, non-interest bearing loan made by Kathryn Fitzpatrick. The loan was paid off on October 3, 1983.

See Accountants' Review Report

Page 6 of 6

28 AMPERSAND AVE
SARANAC LAKE, N.Y. 12983



April 4

Dick:

THANKS FOR WRITING BACK, HOWEVER THE "ENCLOSED LETTER" REGARDING LONGEVITY PAYMENTS WAS NOT ENCLOSED. WOULD YOU PLEASE SEND ME A COPY. ARE YOU AWARE OF ANY CASES LIKE MINE, SAFETY TO CO. WHO HAS RECEIVED THE LONGEVITY PAYMENTS?

AS FAR AS PHIL DOBIE GOES —

1- I DON'T KNOW IF HE HAS USED LOCAL FUNDS FOR T.U.F.C.O. OR IF HE IS USING LOCAL FUNDS FOR HIS EXPENSES. I WOULD SUGGEST YOU COME UP HERE AND TALK TO THE OFFICERS WHO RUN THE LOCAL AND POSSIBLY YOU MIGHT GET THE INFO. YOU WANT. AUDIT THE BOOKS?

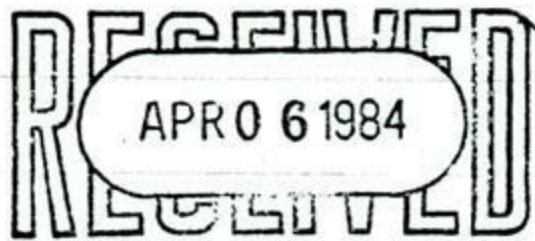
2- IF I HAD ANY INFO I WOULD SIGN A STATEMENT.

3- YOU ALSO STATE T.U.F.C.O. WOULD HAVE ACCESS TO PUBLIC AREAS TO SIGN CARDS STARTING ON MAY 1. CARDS ASKING FOR AN ELECTION WERE ALREADY PASSED OUT 4-8 WEEKS AGO. THEY WERE PASSED OUT BY CO'S AND AS I RECALL

4/6/84 de file
Original to D Bischoff

28 Ampersand Ave
SARANAC LAKE, N.Y. 12983

COUNCIL 82



April 4

Dick:

AFSCME AFL-CIO

THANKS FOR WRITING BACK, HOWEVER THE "ENCLOSED LETTER" REGARDING LONGEVITY PAYMENTS WAS NOT ENCLOSED. WOULD YOU PLEASE SEND ME A COPY. ARE YOU AWARE OF ANY CASES LIKE MINE, SAFETY TO GO. WHO HAS RECEIVED THE LONGEVITY PAYMENTS?

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4/6/84 do file
Original to D Bischoff

Those who signed them were asked NOT to date them. I will ask the C.O. (Eddie Barie) if he has any more cards, read it and see if he want it dated or not, if you want. I don't know if I could get a card as they were very carefull not to let anyone walk off with one.

There is talk about having a shift party in the near future. Last time someone invited T.U.F.C.O. and they talked about T.U.F.C.O. I did not go. The party was funded by local funds. This was in late Oct. When a date is established for another party I will call you on the 800 number and advise you.

I would suggest you come to the party and talk to those present. Be prepared to tell those present what C-82 has done for them and what it is doing now. Whenever someone talks about T.U.F.C.O. vs C-82 you always hear "what have they done", C-82 has an image problem, part of which is its own fault. You need to improve that image before any election. If I can be of any help let me know

Dick Frankel

~~No WAY~~
4/9/84
[Signature]

STIPULATION

It is hereby agreed and stipulated by and between the parties to the above proceedings that:

1. On March 3, 1984, due to confusion as to the meaning of §12.3 of the Office of Employee Relations Employee Relations Manual, "The Union of Federated Correction Officers" (TUFCO) supporters asked for and were granted permission to solicit signatures on designation cards on New York State property. *who did they ask?*
2. Permission to do so was granted in error. *who granted it?*
3. On March 4, 1984, pursuant to the permission referred to in paragraph 1 above, TUFCO supporters solicited and obtained signatures on 30 designation cards at the Fishkill Correctional Facility.
4. On March 4, 1984, when local officers of the NYS Inspection, Security and Law Enforcement Employees, District Council 82 (DC 82) clarified the meaning of access rule 12.3 of the Employee Relations Manual and demanded that solicitation of TUFCO designation cards on State property be halted until May 1, 1984, the permission referred to in paragraph 1 above was revoked and the 30 signed designation cards were taken into the custody of the Department of Correctional Services.
5. Upon the agreement of TUFCO, in compliance with access rule 12.3 of the Employee Relations Manual, not to campaign or solicit signatures on cards or petitions on State property prior to May 1, 1984, the State of New York, Department of Correctional Services will deliver to the Public Employment Relations Board the 30 signed designation cards obtained at the Fishkill Correctional Facility on March 4, 1984.
6. PERB will hold the 30 said designation cards and a determination as to the validity and use in demonstrating a showing of interest under PERB's rules will be deferred and made, if necessary, at such time as TUFCO may file a petition for certification in the Security Services negotiating unit.

7. Upon execution of this stipulation, PERB cases U-7375, U-7385 and U-7406, and the action bearing Albany County Index No. 4304-84 will be discontinued on the merits, with prejudice, and any party may apply to the court for vacature of the temporary restraining order granted by the Hon. Joseph Toracca on April 4, 1984 without notice.

DATED: April , 1984
Albany, New York

State of New York,
Dept. of Correctional
Services

TUFCO

DC

82

*Chalukus
going to throw
it out.
anyway.*

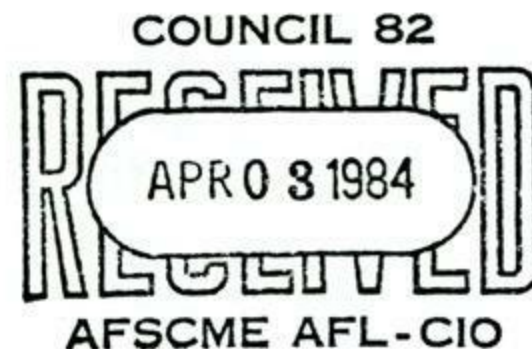
ROWLEY, FORREST AND O'DONNELL P.C.

ATTORNEYS
90 STATE STREET
ALBANY, NEW YORK 12207
(518) 434-6187

RICHARD R. ROWLEY
THOMAS J. FORREST
BRIAN J. O'DONNELL

RUSH W. STEHLIN
RONALD G. DUNN
MARK T. WALSH, JR.
ROBERT S. HITE
VERLE L. JOHNSTON, JR.
JOHN H. BEAUMONT

April 3, 1984



New York State Inspection, Security
and Law Enforcement Employees,
District Council 82, AFSCME, AFL-CIO
63 Colvin Avenue
Albany, New York 12206

Attention: Mr. Frank Benedetto

Re: Council 82, TUFCA Access I.P.
Our File No. 10784

Dear Mr. Benedetto:

We received information from Ronald Edwards and Cindy Trimble that four TUFCA adherents, Robert Farrell, Gary Stevens, John Van Houten and Terry McKinney, entered Fishkill Correctional Facility on March 4, 1984 for the purpose of obtaining signatures on TUFCA cards. I am enclosing with this letter the information which we received. We have also heard that people have been obtaining signatures on TUFCA cards at Clinton Correctional Facility, Watertown Correctional Facility and Brentwood Correctional Facility. We have no specific information from any of those facilities.

On March 15, 1984, we filed an improper practice charge with the Public Employment Relations Board. I am enclosing a copy of that charge with this letter. Essentially the charge alleges that TUFCA and the State have colluded with one another to permit TUFCA agents to enter and campaign in correctional facilities prior to the time when they would be permitted to do so under the State's access rules. We contend that this is a violation of Council 82's right of unchallenged representation status.

The improper practice proceeding is scheduled for a conference at PERB on April 6, 1984. I expect that it will be set down for a hearing shortly after that. I am writing to request your assistance in putting together the proof and locating the witnesses we will need in order to win this improper practice

4/3/84 cc file
Original to L Benedetto

Page 2

Mr. Frank Benedetto

April 3, 1984


proceeding. I will contact Officers Edwards and Trimble directly. Will you please contact the people with whom you coordinate at each correctional facility and determine the information requested on the enclosed fact sheet. We will need to locate and arrange for the testimony at the hearing on the improper practice charge of individuals with first-hand knowledge of the facts. Please complete a separate fact sheet for each facility at which TUFCA adherents have been granted entry for the purpose of campaigning or getting cards signed. Because the conference is scheduled for April 6, 1984 and the hearing is likely to be scheduled shortly thereafter, it is essential that we locate our witnesses quickly. Ideally, I would like to have as much of this information as possible by the morning of April 6, 1984. I think that we should plan to have our proof and witnesses all lined up not later than April 13, 1984.

Thank you for your assistance. If you have any questions, please call me.

Very truly yours,

ROWLEY, FORREST AND O'DONNELL, P.C.

By


BRIAN J. O'DONNELL

BJOD/cd
Enclosures

FACT SHEET FOR TUFCO ACCESS I.P. (10784)

Next to each item of information requested, please write the name of the individual who has personal knowledge of the facts. At the end of the fact sheet, please write the full name, mailing address, shift, regular days off and residential and work phone numbers for each witness listed.

1. Name of facility _____

2. Dates on which individuals were at facility for the purpose of campaigning for TUFCO and/or obtaining signatures on TUFCO cards _____

3. What were the names of the individuals campaigning for TUFCO and soliciting signatures? _____

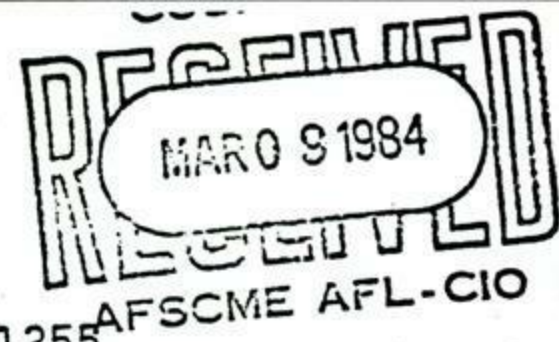
4. Where were the individuals observed? _____

5. Exactly what were they doing, and with whom? _____

6. Did they have permission of a supervisor? If yes, what supervisor? When did they receive permission? Exactly what did they receive permission to do? Was the permission verbal or in writing? (If in writing, attach a copy.) _____

7. What was done about the campaigning? _____

Mr. Rowley



TO: Theodore C. Reid, Superintendent

FROM: Ronald Edwards, Acting President/Local 1255
Cindy Trimble, Executive Board Member/Local 1255

DATE: March 5, 1984

On February 2, 1984, we found T.U.F.C.O. literature in the lobby of our Administration Building, which was immediately reported and turned over to Deputy Superintendent Piacente.

On February 27, 1984, we also reported that on Thursday and Friday evenings, February 23rd and February 24th, T.U.F.C.O. hand-outs were folded and placed in the time card slots as well as being placed on the bulletin boards. The information given to us was that Robert Farrell and John VanHouten had done this.

On March 1, 1984, we received telephone calls that Officers Farrell, Weaver and Shannon were walking throughout the buildings having our members sign T.U.F.C.O. cards, which was also reported.

Last evening at approximately 10:48 p.m. we were notified by Officers on the Afternoon shift that four (4) 2:30 p.m. Officers, John VanHouten, Gary Stevens, Robert Farrell and Terry McKinney had gone back inside the facility after their tour of duty, to have the night shift Officers sign T.U.F.C.O. cards.

Ronald Edwards arrived at the Administration Building at approximately 11:00 p.m.

Cindy Trimble arrived at the Administration Building at approximately 11:05 p.m.

Ronald Edwards reported the situation to the Watch Commander, Walter Thorne.

The Watch Commander then telephoned and radioed each building, notifying his supervisors to have all four (4) Officers report to his office immediately and bring all materials with them.

At approximately 11:15 p.m., Officers VanHouten and Stevens arrived at the Administration Building. At this time, Lieutenant Walter Thorne confiscated both blank and signed T.U.F.C.O. cards. The Officers then exited the facility by way of Administration Gate at 11:26 p.m.

At approximately 11:31 p.m., Lieutenant Walter Thorne telephoned Gate #2 to inform the Officers that no one was to enter or exit through Gate #2, nor use their telephone.

At approximately 11:34 p.m., Lieutenant Walter Thorne received a telephone call from Officer Robert Farrell requesting permission to exit the facility through Gate #2.

The request was denied and he was given a direct order, by the Watch Commander, to report immediately to his office, and to bring all materials in his possession.

At approximately 11:46 p.m., Officers Farrell and McKinney arrived at the Administration Building. At this time, they were informed by Lieutenant Thorne that what they were doing was a violation of the contract and they were to turn over the cards and leave the facility.

Officer Farrell requested a receipt which was given to him by the Watch Commander.

At approximately 11:51 p.m., Officers Farrell and McKinney exited the facility.

Lieutenant Walter Thorne then placed all confiscated T.U.F.C.O. cards, both signed and blank, in an envelope and stated he would turn them over to the Superintendent in the morning.


Attached to this letter are copies of the sign-in sheets, sign-out sheets for keys and a T.U.F.C.O. card.

Please note that these Officers drew keys after their tour of duty, as their keys are signed out with the night shift Officers.

Respectfully submitted and witnessed by,



Ronald Edwards
Acting President/Local 1255



Cindy Trimble
Executive Board Member/Local 1255

/cmt

cc: ~~Jack Burke, Executive Director/Council 82~~
Richard Bischert, President/Council 82
Joseph Puma, Correction Policy Chairman
Ed Dean, Staff Representative/Council 82
Carmine Piacente, Deputy Superintendent for Security
John Battista, Captain
Walter Thorne, Watch Commander/10:00 p.m. shift

6.

NAME	DATE	TIME OUT	TIME IN	REASON
Dave Cohen	2/29/84	2:30		Early Out
Mike Cohn	2/29/84	2:30		Early Out
...
A. Casprow	3-1-84	2:40 AM		Early out
J. Whaley	3-1-84	2:40 AM		Early out
Ferrari	3-1-84	2:39 AM		E/O
BARONZ	3-1-84	2:44 AM		E/O
R. MULLER	3-1-84	2:45 AM		E/O
Clubs	2-1-84	2:25 AM		E/O
RT MORTON	3-2-84	1:17 PM		E/O
Felici	3-3-84	10:30		E/O
FRANKENTHNER	3-3-84	10:55		E/O
OSWALD	3-3-84	10:55		E/O
Hc STABISH	3-4-84	12:35		E/out
R. FERRELL	3-3-84	1:15		E/O
A Castro	3-3-84	1:25		PL
S. Vuch	3-3-84	11:30	4:45	Phone TRC
T. Williams	3-4-84	5:00	4:45	Camp Beacon Meo
J. Smith	3-4-84	6:45		SICK
G. Stephens	3/7/84	11:25 P.M.	11:26 AM	BUSINESS
J. K. K...	3/4/84	11:15 P.M.	11:26 AM	BUSINESS
T. Johnson	3/4/84	11:51		BUSINESS
T. McKinnon	3/4/84	11:51		" "
R. Farrell	3-4-84	11:51		" "
Nancy Shubert	3/4 84	12:00		SICK

Watch
Commanders
Initials

543 SA North Muller
L.R.A. A. LACH

Mullen, M
An. Lee

12M J. McKeown
124M J. Vanhouten

J. Vanhouten

61 J. Winnie

J. Winnie

51M J. Patao I. PATAO

J. Patao

726 P LT THORNE
584 P L. BRIMSTRONG

L. Armstrong

557

DETAILS OF CHARGE

6. Specify in detail the alleged violation(s). Include names, dates, times, places and particular actions constituting each violation. Use additional sheet(s), if necessary. Failure to supply sufficient factual detail may result in a delay in processing or dismissal of the charge.

a) The Charging Party is an employee organization within the meaning of N.Y. Civil Service Law §201.

b) Upon information and belief the State of New York is a public employer within the meaning of N.Y. Civil Service Law §201.

c) The Charging Party is the employee organization certified as the representative of the employees in New York State's Security Services Bargaining Unit pursuant to N.Y. Civil Service Law §204.

d) Upon information and belief the respondent TUFCO and/or TUFCO, Inc. claim to be an employee organization within the meaning of N.Y. Civil Service Law §201.

e) The Charging Party and the State of New York have entered into a collective bargaining agreement due to expire concurrently with the end of the employer's fiscal year on March 31, 1985.

f) Upon information and belief the respondents State of New York and TUFCO and/or TUFCO, Inc. and/or their officers, agents or employees have agreed or acted in concert with one another to permit representatives of TUFCO and/or TUFCO, Inc. to enter and remain in job sites operated by the State of New York for the purpose of leaving and/or distributing literature and other material, campaigning against the Charging Party and attempting to obtain signatures with which to attempt to decertify Charging Party as the employee organization representing employees in the Security Services Bargaining Unit.

g) Upon information and belief the aforesaid conduct has occurred at facilities including but not limited to Fishkill Correctional Facility, Clinton Correctional Facility, Watertown Correctional Facility & Brentwood C.F.

h) Upon information and belief the agents of TUFCO and/or TUFCO, Inc. who engaged in the aforesaid conduct include but are not limited to Robert Farrell, John VanHouten, Gary Stevens and Terry McKinney.


i) Upon information and belief the aforesaid conduct occurred on but not limited to the following dates: February 2, 23, 24, March 1 and 2, 1984 and on other dates within 4 months preceding the filing of this charge.

j) Upon information and belief the aforesaid conduct constituted a violation of the guidelines for organizational activities and campaigns promulgated by the Office of Employee Relations of the State of New York.

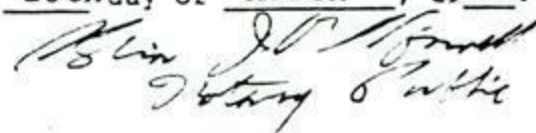
k) Upon information and belief the aforesaid conduct constituted a violation of N.Y. Civil Service Law §209-a(1)(a) and (d) and §209-a(2)(a) in that the respondents have, upon information and belief, negotiated, agreed and acted in concert with one another to interfere with, restrain and coerce or in the case of TUFCO and/or TUFCO, Inc. to cause or attempt to cause the State of New York to interfere with, restrain or coerce employees in the New York State Security Services Bargaining Unit of the rights contained in N.Y. Civil Service Law §202 and through that statute §§203, 204 and 208.

STATE OF NEW YORK)
COUNTY OF ALBANY) SS.:

JOHN W. BURKE, being duly sworn deposes and says, that (x)he is the charging party above named, or its representative, and that (x)he has read the above charge consisting of this and 0 additional page(s), and is familiar with the facts alleged therein, which facts (x)he knows to be true, except as to those matters alleged on information and belief, which matters (x)he believes to be true.


(Signature)
JOHN W. BURKE
Executive Director
(Title)

Subscribed and sworn to before me
this 15th day of March, 1984.


Notary Public

STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD

IMPROPER PRACTICE CHARGE

INSTRUCTIONS: File an original and four (4) copies of this charge with the Director of Public Employment Practices and Representation, New York State Public Employment Relations Board, 50 Wolf Road, Albany, New York 12205. If more space is required for any item, attach additional sheets, numbering item accordingly.

N.Y.
DO NOT WRITE IN THIS SPACE
Case No. **RECEIVED**
MAR 15 1984
Date Received **REPRESENTATION**

1. CHARGING PARTY

- a. Name (If employee organization, give full name, including affiliation and local name and number): New York State Inspection, Security and Law Enforcement Employees, District Council 82, American Federation of State, County and Municipal Employees, AFL-CIO
- b. Address (No. & Street, City and Zip Code): 63 Colvin Avenue
Albany, New York 12206
Telephone Number: (518) 489-8424
- c. Name and title of the representative filing charge: John W. Burke
Executive Director
- d. Name, address and telephone number of attorney or other representative, if any, to whom correspondence is to be directed: Rowley, Forrest and O'Donnell P.C.
90 State Street
Albany, New York 12207
Attention: Brian J. O'Donnell, Esq.

2. PUBLIC EMPLOYER AND/OR EMPLOYEE ORGANIZATION AGAINST WHOM CHARGE IS BROUGHT

- a. Name and Address (No. & Street, City and Zip Code): State of New York
Office of Employee Relations
Agency Building 2
Empire State Plaza
Albany, New York 12223
b. Telephone Number: (518) 474-6988
A group claiming to be an employee organization by the name of The Union of Federated Correction Officers and/or the United Federation of Correction Officers, Inc., a/k/a TUFCO and TUFCO, Inc., P.O. Box 72, Hudson Falls, NY 12839 (518) 792-3535

3. If the charge alleges a violation of Section 209-a.1 (d) or 209-a.2(b) of the Act, has the charging party notified the Board in writing of the existence of an impasse pursuant to Section 205.2 of the Board's Rules of Procedure?

YES _____ NO X

4. Is the charging party available immediately to participate in a pre-hearing conference and a formal hearing?

YES X NO _____

On or after March 29, 1984

VIOLATIONS ALLEGED

5. Pursuant to Article 14 of the Civil Service Law, as amended (Public Employees' Fair Employment Act), the charging party hereby alleges that the above-named respondent(s) has (have) engaged in or is (are) engaging in an improper practice within the meaning of the following subsections of Section 209-a of said Act (check the subsection(s) allegedly violated):

If by a public employer
a purported
If by ~~XX~~ employee organization

- (X) 209-a.1(a)
() 209-a.1(b)
() 209-a.1(c)
(X) 209-a.1(d)
() 209-a.1(e)
(X) 209-a.2(a)
() 209-a.2(b)



Security and Law Enforcement Employees Council 82

AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES AFL-CIO

63 COLVIN AVENUE, ALBANY, N.Y. 12206

PHONE 518/489-8424

April 9, 1984

Mr. Max Cohen

Urbach Kahn Werlin PC, CPA's
66 State Street
Albany, NY 12207

Dear Max:

Will you analyze this financial statement from TUFCO and forward your comments to me. Your comments will not be revealed to anyone; they will be just for my own information. I would appreciate a prompt response.

Sincerely,

Jack W. Burke
Executive Director

JWB:kd

Enclosure

file

8.95.
99.00 yr serv

Meeting in Club.

4/6/84.

Tam King
Kasnah.
M. Dawling

Hally
Frank
Rowley.

Discussed - TUCCO, court case.

Mar 4 - 84 - (TUCCO cards were signed).

Don't What C-82 is doing for you.
Positive Proaction w/ Rego.
(combine above)

Charge
soc. label.

Have positive piece out before
May 1 ↔

Out. to get
to us.

Charges - Art 2 additional charges
this mo. - 2 diff sets of charges - 1 set on print
orig.

* KILEY Tues 7³⁰
By the last wk of this mo, hang up some
2 wk time

Leadership Bulletin on Trusteeship.
for _____ reasons. →
* File Charges at same time.

2 separate sets of charges. - dual unionism
the next 2 to 3 wks.
have other members sign charges.

- * We've got approval to hire 2 proj staff.
- + Prepare nego. cards.
Looking forward to next nego.
- * Minutes from Downstate.
Wally reports.
- (Kirkendal - don't answer any questions if TUFCO calls.
- * Written request from Walkill. for receiver ship.
- * Send copy of TUFCO's financial statement to our accountants for their comments.
Urboch Kahn & Warlen.
- Possibly go to D. H. on Farrell on Trustee audit report?
- * News release when we implement court case on Brentwood.
- Fact sheet to Downstate?
- Meeting w/ Funchills - Booth

Winnon survey area migration
of in W/ Brynna.



462
9092

Weekly activity report. to be sent to all
loc. chair ofrs.

Letters from Walkill requesting that that be
be placed into receivership or trusteeship.

Radio & T.V. Public service.

T.V. satellite for Pres. meeting.

Org. chart.

Books for Soc. Pres. meeting.

Wed AM 10 - P.E.R.B.

4/9/84 ⇒ Kennon - Criminal chgs against Farrell.



AFSCME®

1625 L Street, N.W., Washington, D.C. 20036
Telephone (202) 429-1000

To: Ed Dean From: Jim Sprada Date 4/2/84
Re: Training Programs Local No. Cn 82

Attached are the copies of the sign-in sheets I told you I'd send. I'm also enclosing a copy of the TUFCA handout I picked up at the Fishkill program. Thanks for helping out.

Call on me again.

JS:eg
cc: John P. Dowling

Attachments



*4/6/84 cc file
Original to Ed Dean*

*cc: Mark B.
Kelly C.
Bischoff
Puma
file (Tufca)*

in the public service

THIS ORGANIZATION THEY CALL T.U.F.C.O.

When this organization was first formed, they claimed their goal was to represent the Correction Officer.

Since that time, they have been soliciting the Non-Correction Groups. THATS RIGHT!, the same people that they claim to want to break away from; Lifeguards, EnCon, Building Guards, Safety Officers, etc.

It makes one wonder if their devotion is really with the Correction Officers, or do they lack support or are they just power hungry?

For those who have been mislead with the notion that the Triboro Doctrine will protect your present benefits, this is also a sales pitch. The Triboro Law allows benefits to be carried over until the next contract is ratified. This is applied when you have the same bargaining unit doing your negotiating, not during a challenge period. EXAMPLE:

While Council 82 is negotiating your new contract, the past benefits that Council 82 obtained for you will continue past March 31st, until ratification of the new contract by Council 82.

If T.U.F.C.O. attempts to negotiate your contract, after March 31st, what do we fall back on?.....
.....Council 82's benefits? NO WAY!, and
thats from the Governors Office of Employee Relations.

Once again, we should all very seriously consider what we may be sacrificing.

CAN YOU AFFORD TO TAKE A CUT IN PAY?

CAN YOU DEAL WITH NO TRANSFER LIST OR BID SYSTEM? ASSIGNMENTS SUBJECT TO THE DISCRETION OF THE ADMINISTRATION.

DO YOU WANT TO PAY FULL PRICE FOR YOUR PRESCRIPTIONS?

IF YOU SHOULD GET HURT ON THE JOB, DO YOU WANT TO USE YOUR OWN TIME FOR THE FIRST TEN DAYS, LIKE C.S.E.A.?

DO YOU WANT TO GIVE BACK TWO OR THREE PERSONAL LEAVE DAYS, LIKE P.E.F. DID?

POINT OF INFORMATION:

DO YOU KNOW THAT T.U.F.C.O. WANTS TO DO AWAY WITH LOCAL UNIONS. NO GRIEVANCES. NO MONEY. A SMALL GROUP OF PEOPLE CONTROLLING ALL THE MONEY AT REGIONAL LEVELS, TELLING YOU IF YOU CAN HAVE MONEY FOR CHRISTMAS PARTIES OR OTHER EVENTS. SUBJECT TO THEIR APPROVAL, AND WHO ARE THOSE PEOPLE GOING TO BE.....ELECTED OR APPOINTED.

THEY ALSO WANT TO APPOINT CHIEF STEWARDS AT EACH FACILITY (ONE) WHO WILL BE ON FULL TIME UNION LEAVE WITH SALARY PLUS EXPENSES. WHO ARE THOSE PEOPLE GOING TO BE.....WHO APPOINTS THEM?

TO THE MEMBERS OF LOCAL 1255:

RECENTLY A LOT OF T.U.F.C.O. LITERATURE HAS BEEN CIRCULATED. ARE YOU AWARE, SHOULD THEY EVER BECOME YOUR BARGAINING AGENT IN PLACE OF COUNCIL 82, THAT #1 - THE AGREEMENT BETWEEN THE STATE OF NEW YORK AND COUNCIL 82, REFERRED TO AS OUR CONTRACT IS NO LONGER IN EFFECT, WHICH RESULTS IN #2 - HAVING TO RE-NEGOTIATE THE ENTIRE PACKAGE. BELOW IS A LIST OF SOME OF THOSE AGREEMENTS THAT IT TOOK COUNCIL 82 APPROXIMATELY FOURTEEN (14) YEARS TO ATTAIN FOR THEIR MEMBERS AND ARE SUBJECT TO LOSS SHOULD T.U.F.C.O. TAKE OVER:

- | | |
|--|------------|
| 1. Union Rights. | Article 5 |
| 2. Grievance and Arbitration Procedures. | Article 7 |
| 3. Disciplinary Procedures. | Article 8 |
| 4. Out of Title Work. | Article 9 |
| 5. Compensation. | Article 11 |
| 6. Health Insurance. (Optical Plan) | Article 12 |
| 7. Dental Insurance. | Article 12 |
| 8. Prescription cards. | Article 12 |
| 9. Vacation Leave. | Article 14 |
| 10. Personal Leave. | Article 14 |
| 11. Sick Leave. | Article 14 |
| 12. Workers Compensation. | Article 14 |
| 13. Time off for Civil Service Exams. | Article 15 |
| 14. Uniform allowance. | Article 20 |
| 15. Indemnification. | Article 21 |
| 16. Reimbursement for property damage. | Article 23 |
| 17. <u>SENIORITY (Think about it!)</u> | Article 24 |

ARE YOU WILLING TO GIVE UP ANYTHING WE ALREADY HAVE? T.U.F.C.O. MUST START FROM THE VERY BEGINNING WITH NOTHING AND TRY TO GET US SOMETHING WE ALREADY HAVE. GOING BACKWARDS IS NOT THE ANSWER. WE'VE GOTTEN THIS FAR, WE SHOULD MOVE AHEAD.

STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD

In the Matter of
STATE OF NEW YORK (OFFICE OF EMPLOYEE
RELATIONS); and THE UNION OF FEDERATED
CORRECTION OFFICERS*,

Respondents,

-and-

NEW YORK STATE INSPECTION, SECURITY AND
LAW ENFORCEMENT EMPLOYEES, DISTRICT
COUNCIL 82, AMERICAN FEDERATION OF STATE,
COUNTY AND MUNICIPAL EMPLOYEES, AFL-CIO,

Charging Party.

MOTION FOR
PARTICULARIZATION
OF CHARGE

Case No. U-7375

TO: HON. ROBERT J. MILLER
Administrative Law Judge

THE UNION OF FEDERATED CORRECTION OFFICERS* (hereinafter
"TUFCO") respectfully moves for an order directing the charging
party to file a verified statement supplying the following
particulars, on the ground that the charge is so vague and in-
definite that it cannot reasonably be required to frame an
answer:

1. With respect to the allegations of paragraph "g)" of
the charge, name the as-of-yet unnamed "facilities" where the
charging party will claim that TUFCO supporters have engaged in
the said allegedly improper actions.

*Named as "The Union of Federated Correction Officers and/or
The United Federation of Correction Officers, Inc., a/k/a
TUFCO and/or TUFCO, Inc."

cc: B. O'Donnel, lawfirm
F. Benedetto
TUFCO File
file



2. With respect to the allegations of paragraph "h)" of the charge, name the as-of-yet unnamed "agents" of TUFCO who the charging party will claim to have engaged in the said allegedly improper actions.

3. With respect to the allegations of paragraph "i)" of the charge, name the as-of-yet unspecified "dates" upon which the charging party will claim that supporters of TUFCO have engaged in the said allegedly improper actions.

4. With respect to the allegations of paragraph "j)" of the charge, specify the particular "guidelines" for organizational activities and campaigns which the charging party will claim that TUFCO supporters have violated by their said allegedly improper actions.

5. With respect to the allegations of paragraph "k)" of the charge, state in some logical manner how the charging party will claim that any of TUFCO's said actions have "cause(d) or attempt(ed) to cause the State of New York to interfere with, restrain or coerce employees in the New York State Security Services Bargaining Unit of (sic) the rights contained in N.Y. Civil Service Law Section 202."

6. With respect to every individual TUFCO officer, agent or employee (A) named in the charge or (B) named in the response to this motion for particularization, state for each individual:

- a. Where the individual's said allegedly improper actions purportedly occurred, and what they were, and
- b. When such actions are alleged to have occurred, particularly, whether such actions are claimed to have occurred on or off working time.

Dated: April 3, 1984
at Albany, New York

Respectfully submitted,

Jeffrey H. Brozyna
Attorney for Respondent TUFCO
Office & P.O. Address:
313 Washington Avenue
Albany, New York 12206
(518) 465-3352

STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD

In the Matter of
STATE OF NEW YORK (OFFICE OF EMPLOYEE
RELATIONS); and THE UNION OF FEDERATED
CORRECTION OFFICERS*,

Respondents,

-and-

MOTION FOR
PARTICULARIZATION
OF CHARGE

Case No. U-7375

NEW YORK STATE INSPECTION, SECURITY AND
LAW ENFORCEMENT EMPLOYEES, DISTRICT
COUNCIL 82, AMERICAN FEDERATION OF STATE,
COUNTY AND MUNICIPAL EMPLOYEES, AFL-CIO,

Charging Party.

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answer:

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charging party will claim that TUFCO supporters have engaged in
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*Named as "The Union of Federated Correction Officers and/or
The United Federation of Correction Officers, Inc., a/k/a
TUFCO and/or TUFCO, Inc."

cc: B. O'Donnel, lawfirm
F. Benedetto
TUFCO File



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- a. Where the individual's said allegedly improper actions purportedly occurred, and what they were, and
- b. When such actions are alleged to have occurred, particularly, whether such actions are claimed to have occurred on or off working time.

Dated: April 3, 1984
at Albany, New York

Respectfully submitted,

Jeffrey H. Brozyna
Attorney for Respondent TUFCO
Office & P.O. Address:
313 Washington Avenue
Albany, New York 12206
(518) 465-3352



AFSCME
in the public service

American Federation of State, County and Municipal Employees

LOCAL 1406

TO: The Membership DATE: April 9, 1984
FROM: R.T. Lomanto, President Local 1406
SUBJECT: Challenges To Council 82 Representation.

On Tuesday April 3, 1984, this Local attended a meeting chaired by the President of Council 82, Mr. Richard Bischert. Mr. Bischert addressed this Regional Policy Meeting consisting of representatives of the Attica, Albion, Alden, Groveland and Collins facilities regarding the impending challenge by an organization calling themselves THE UNITED FEDERATION OF CORRECTION OFFICERS, TUF~~CO~~ for short. Also in attendance at this meeting was Bob Maloney, Field Rep from Council 82 for this area. Mr. Bischert pointed out that he is aware of TUF~~CO~~ and TUF~~CO~~'S tactics to jump the gun by misrepresenting themselves to anyone who will listen to their propaganda. There is nothing wrong with a challenge for the sole bargaining rights currently enjoyed by Council 82. The problem lies in the fact that there is a certain time for this challenge, May 1, 1984 to be specific, and TUF~~CO~~ has jumped the gun here as well as at other facilities. TUF~~CO~~ has passed out literature maligning Council 82 here at this facility. Mr. James, the Superintendent has issued a memorandum directed at the individual responsible for these acts to stop this unlawful behavior immediately. Council 82 is fully prepared to file formal charges against any member who is found guilty of violating proper challenge procedures. Mr. Bischert and Mr. Maloney request our assistance in reporting any Pro-TUF~~CO~~ activity at our facility prior to the beginning of the May 1, 1984 challenge period. These reports are to be specific, who did or said what, when and to who. Any member of this Local who witnesses any Pro-TUF~~CO~~ activity is directed to contact your Steward or any Executive Board Member as soon as possible. Remember, no literature is to be passed-out, petitions signed, notices posted prior to May 1, 1984. Your cooperation will insure that appropriate action is taken. What is TUF~~CO~~, who is behind it, what does it stand for, what does it take for a successful challenge are questions that must be answered. Do not miss the next Union Meeting, Tuesday April 24, 1984 at 4pm on the second floor of Bldg. #12. A separate meeting will be held for the afternoon shift at 12:00 am, April 25, 1984 at the same location. Refreshments to follow both meetings.

Fraternally Yours,

R.T. Lomanto, Pres. Local 1406

- CC: Council 82-Jack Burke, Executive Director
- Dick Bischert, President
- Jim Mann, Exec. VP
- Joe Puma, Chairman Correction Policy
- Bob Maloney, Field Rep.

4-12-84
cc: F. Benedetto
KA
f6

COUNCIL 82
RECEIVED
APR 11 1984
AFSCME AFL-CIO

TUFCO



Security and Law Enforcement Employees Council 82

AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES AFL-CIO

63 COLVIN AVENUE, ALBANY, N.Y. 12206

PHONE 518/489-8424

May 14, 1984

Mr. William West
Wallkill Correctional Facility
Box G, Route #208
Wallkill, NY 12589

Dear Mr. West:

I am writing to inform you that Council 82, AFSCME is the exclusive bargaining agent for members in the Security Services and Security Supervisors Units.

This information is clearly stated in Article 2, the Recognition Article of the 1982-85 Contract Agreement between New York State and Council 82, AFSCME.

Concerned members of Council 82 have brought to my attention that you have been illegally handing out literature which is slanderous of Council 82, AFSCME and which supports a competing organization. This is in direct violation of your membership obligations.

Additionally, you have been soliciting and signing up on our turf, members for the so-called "Union" "T.U.F.C.O." This is impeding our progress to prudently serve our members - this, of course, is very distasteful as it is equally wrong and a disservice to your Union.

I am respectfully requesting that you cease and desist these activities immediately -- your actions cannot and will not be tolerated any longer.

Further, I must advise you that if you do not cease these activities, Council 82 will take appropriate legal or administrative action against you or any member who is disloyal to Council 82, or who illegally solicits membership in a competing organization such as T.U.F.C.O. Specifically, Council 82 has the authority to bring you up on union charges, permanently expel you from membership, and impose other penalties under our Union Constitution. In addition, you may be named as a Respondent to Improper Practice Charges, prepared by our attorneys. Finally, you may be named as a Defendant in other law suits being contemplated by Council 82.

In the event you have a concern or a problem regarding the services being provided by Council 82, please do not hesitate to call me and I will be pleased to discuss it with you. I am confident that any legitimate problems you have can be resolved.

Actions which aid a competing organization have the impact of destroying correction officers' ability to resist management's and inmate groups' efforts to weaken seniority and other vital provisions of our Council 82 Contract which have recently been under attack. Don't be a T.U.F.C.O. dupe for management and inmate groups. Instead, let us work together to make a great Union better.

Fraternally,


John W. Burke
Executive Director

JWB:kd

cc: Executive Board Local 613
R. Vosper
W. Cavanagh
F. Benedetto



Security and Law Enforcement Employees Council 82

AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES AFL-CIO

63 COLVIN AVENUE, ALBANY, N.Y. 12206

PHONE 518/489-8424

July 11, 1984

Mr. Thomas Hartnett, Director
Governor's Office of Employee Relations
Agency Building #2
Albany, NY 12223

Dear Mr. Hartnett:

This is regarding GOER Equal Access violations on the part of the Union of Federated Correction Officers and a request to know what action has been taken thus far. As you know, May 1, 1984, marked the period in time which TUFCA was given permission to solicit card signing and passing out campaign material in non-working areas during non-working hours.

Unfortunately, this group demonstrates consistent violations in various correctional facilities throughout the state. Following the complaint procedure as set forth in the GOER Guidelines, my assistant Frank Benedetto has been logging each violation as it occurs and we have been taking appropriate action as the incidents occur.

What I need to know now is what action have you and your staff taken in addressing our complaints, specifically in the following cases:

- May 2, 1984, Wednesday - Arthurkill Correctional Facility approximately 10:30 a.m. in various working locations, Mr. Schwartz and Mr. LaPorte were soliciting card signing. Local, department and agency levels were notified by Council 82.

- May 9, 1984, Wednesday - Hudson Correctional Facility approximately 11:45 a.m. in the line-up area, Mr. Sal Floria solicited card signing during working hours in a work location. Local, department and agency levels were notified by Council 82.

- May 9, 1984, Wednesday - Adirondack Correctional Facility approximately 12:45 p.m., Mr. Kevin Casey signed lobby log book and proceeded to the Gym Building soliciting card signing and handing out campaign material during working hours in a work location. Local, department and agency levels were notified by Council 82.

- June 28, 1984, Thursday - Ogdensburg Correctional Facility approximately 2:00 p.m. In the lobby, Mr. James Morrissey solicited card signing and handed out campaign material in a working area during working hours. Local, department and agency levels were notified by Council 82.

- June 28, 1984, Thursday - Ogdensburg Correctional Facility approximately 10:40 p.m. in the line up room. Mr. Egan was soliciting card signing and handing out campaign material in a work area during working hours. Local, department and agency levels were notified by Council 82.

- July 6, 1984, Friday - Lincoln Correctional Facility approximately 1:00 p.m. and ongoing since May 1, 1984. Mr. Melvin Marrero solicited card signing and handed out campaign material during working hours and in working locations. Local, department and agency levels notified by Council 82.

The call to action is there is a need to know why action has not been taken against the organization of TUFCA for these consistent violations of the OER Guidelines. Please respond at your earliest convenience.

Sincerely,


John W. Burke
Executive Director

JWB:kd



Security and Law Enforcement Employees Council 82

AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES AFL-CIO

63 COLVIN AVENUE, ALBANY, N.Y. 12206

PHONE 518/489-8424

July 9, 1984

Ms. Elizabeth Houke, President
Public Employees Federation
159 Wolfe Road
Albany, NY

Dear President Houke:

Enclosed please find a copy of a letter from John F. Lowe who is presently employed at Wallkill Correctional Facility as a Civilian Temporary Release Interviewer and also presumably a member of PEF.

As I am sure you are aware, there is a handful of former Council 82 members that are making a feeble attempt to challenge C-82 for representation of our members. You will note on the attached copy of Mr. Lowe's letter to Mr. Dennis Fitzpatrick that he is encouraging and assisting a rival organization in their attempts to decertify Council 82. I realize that the date of the letter is March 29, 1984, but I again emphasize that it was just brought to my attention on this date.

I am also informed that Mr. Lowe is a former State Correction Officer who was employed at Downstate Correctional Facility. I feel that it is my duty to make you aware of this person's activities as it appears he is disloyal to unionism in general. I ask that you take whatever action the situation warrants, in your opinion. I feel that if for no other reason you should be aware of this person's activities because I believe that if he would be a Judas against one organization, he would more than likely be the same with your organization.

Please advise me of any action you take. Kindly copy me in on your correspondence regarding this matter.

Fraternally,

John W. Burke
Executive Director

JWB:kd
Enc.

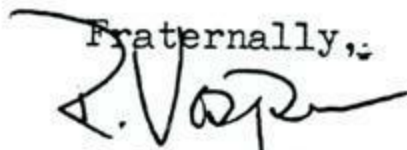
Sent
certified-
mail
7-9-81
(K)

**WALLKILL CORRECTIONAL FACILITY
INTER-DEPARTMENTAL MEMORANDUM**

TO: F. Benedetto, Chief Assistant to the CHIEF
FROM: R. Vosper, EX. BD. Member
RE: Tufco
DATE: 7-3-84

Enclosed please find some papers that I inadvertently came across. Please pay particular attention to the items that bear the name of John Lowe, this individual is a former CO from Dwnstste, C.F. who is now the Tempory Release Interviewer here at Wallkill C.F. He is also a member of PEF. I would think that a call to PEF, stating our objections to one of their members interfering with Councils current fight would br in order.

Fraternally,

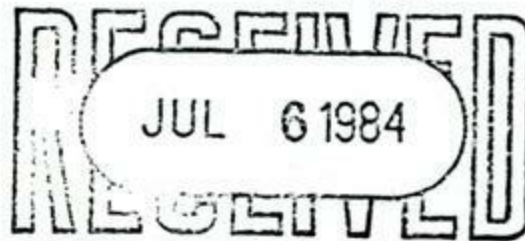


R. Vosper, EX. BD. Member

MS 12/12/80

7/6/84 cc file
Orig. to L Benedetto

COUNCIL 82



AFSCME AFL-CIO

JOHN F. LOWE
BOX 4, WATSON AVENUE
MILTON, NEW YORK 12547
MARCH 29, 1984
(914) 795-2565

DENNIS FITZPATRICK
T.U.F.C.O. INC.
P.O. BOX 72
HUDSON FALLS, NEW YORK 12839

DEAR DENNY:

AT YOUR CONVENIENCE, THE CORRECTION OFFICERS AT WALLKILL CORRECTIONAL FACILITY, WOULD LIKE TO MEET WITH YOU OR A DESIGNATED REPRESENTATIVE FOR AN "INFORMATION MEETING".

APPROXIMATELY A MONTH AGO, THE EXECUTIVE OFFICERS OF THIS LOCAL RESIGNED, AND IN THE COMING WEEK COUNCIL 82 & A REPRESENTATIVE OF A.F.S.M?E. WILL MEETING WITH THE MEMBERS OF THE LOCAL TO ATTEMPT TO REORGANIZE THE LOCAL.

I THINK THAT IT WOULD BE TO THE ADVANTAGE OF T.U.F.C.O., TO SCHEDULE A MEETING AS SOON AS POSSIBLE.

PLEASE RESPOND AS SOON AS POSSIBLE CONCERNING YOUR INTENTIONS.

John F. Lowe
JOHN F. LOWE

Civilian I.R.C. interviewer, former
Dunstable C.O. Member of P.E.F.

AMERICAN SERVICES INC. AGRICULTURIST

AGE
COC
Issue Date
App

COMPLETE AND RETURN TO JOHN LOWE
Civilian TRC. Interviewer
AT W.C.F

TYPE POLICY	INDIVIDUAL			FAMILY		
	UNITS	TERM (MOS.)	PREMIUM	UNITS	TERM (MOS.)	PRE
Accident / Optional Disability						
Hospital						
Hosp. Misc Rider						
Surgical						
Major Hospital						
Disability Income		MONTHLY				
A+H O-14						

MBE Condition _____ Pts. _____

Condition _____ Pts. _____

Total Pts. _____ Table _____

Additional MBE information on back of application

Print Name _____

_____ Last Name First Name Initial

Street or R.F.D. No _____ County Code _____

Post Office _____ State _____ Zip Code _____

Date of Birth _____ Age _____ Sex _____

Month Day Year

Weight _____ Height _____ Ph: A/C _____

FT. IN.

Occupation _____

Employer _____

What other occupation? _____

Name of Beneficiary _____

First Name Last Name

Relationship to applicant _____

1 What other Accident, Disability or Hospital insurance do you carry?

2 To the best of your knowledge and belief, have you or any eligible family member

(a) ever had or received medical advice or treatment for:

	YES	NO		YES	NO
Cancer	<input type="checkbox"/>	<input type="checkbox"/>	Varicose Veins	<input type="checkbox"/>	<input type="checkbox"/>
Diabetes	<input type="checkbox"/>	<input type="checkbox"/>	Hemorrhoids	<input type="checkbox"/>	<input type="checkbox"/>
Tuberculosis	<input type="checkbox"/>	<input type="checkbox"/>	Ulcers	<input type="checkbox"/>	<input type="checkbox"/>
Kidney Trouble	<input type="checkbox"/>	<input type="checkbox"/>	Arthritis	<input type="checkbox"/>	<input type="checkbox"/>
Heart Trouble	<input type="checkbox"/>	<input type="checkbox"/>	Hernia	<input type="checkbox"/>	<input type="checkbox"/>
High Blood Pressure	<input type="checkbox"/>	<input type="checkbox"/>	Back Trouble	<input type="checkbox"/>	<input type="checkbox"/>
Epilepsy	<input type="checkbox"/>	<input type="checkbox"/>	Alcoholism	<input type="checkbox"/>	<input type="checkbox"/>

(b) ever had any other physical impairment, or departure from good health?

(c) been under the doctor's care, taking any medication or confined in a hospital or sanitarium within the past five years?

(d) ever had any application for accident, health, or hospital insurance declined, or such policy rated up, canceled, or nonrenewed?

(e) been advised to have surgery, or is surgery contemplated?

If "YES" is indicated to any question, explain below:

Names of covered dependents	Age	Sex	Weight	Height
1				

Additional dependents listed on back of application.

NAME _____ NATURE OF SICKNESS OR INJURY _____

DATE _____ DEGREE OF RECOVERY _____

DOCTOR'S NAME _____ COMPLETE ADDRESS: _____

RULES FOR SIGNATURE TAKERS

1. If a supervisor orders you not to do something, for example, not to pass out signature cards in the locker room, obey the order, but report the incident to Dennis Fitzpatrick (518) 747-0696 immediately.
2. Signatures should be accepted only from correction officers and any other employees who are part of the Security Services Unit, which is currently represented by AFSCME Council 82. Signatures should not be taken from correction Lieutenants, Captains, and others in the Security Supervisors Unit, which is also represented by AFSCME Council 82. Finally, signatures should not be taken from those employed in bargaining units represented by the CSEA, PEF, UUP, or any other statewide union.
3. If in doubt, take the signature. We will weed out the names of non-unit people at a later time.
4. It is important that all information on the card be completed. The signature should be signed by the employee, but the signature taker may fill in the other information. It is especially important that each card be dated.
- * 5. Signatures should not be taken before March 1, 1984.
- * 6. Between March 1, 1984 and April 30, 1984, we have no absolute legal right to take signatures inside the work facilities, although a legal argument exists in our favor. You do have a legal right between March 1st and April 30th to take signatures outside or nearby the premises, before or after work, for example, in parking lots or other areas open to the public.
7. After May 1, 1984, signature takers who are employees may take signatures at work, but only on non-working time and in non-working areas.
8. You may tell employees that the cards will be used to get PERB to order a secret ballot election in the Security Services Unit between The Union of Federated Correction Officers (TUFCO Union) and Council 82 of AFSCME, with the winner becoming the bargaining agent for the unit. 30%
9. If asked, you should explain that The Union of Federated Correction Officers (TUFCO Union) was established by the same men who founded The United Federation of Correction Officers, Inc. (TUFCO, Inc.) but that TUFCO Union is the only organization that can be authorized to bargain collectively with the State under The Taylor Law.
10. Keep your signatures in a safe place until August when we will collect them.
11. If any other questions come up, call Dennis Fitzpatrick. He will contact our attorneys if necessary.

* HAVE THE MEMBER FILL OUT THE CARD
YOUR PRESENCE - DO NOT GIVE HIM THE CARD.
[DO NOT SPLIT THE COLOR OF THE INK
IF IT WAS OUT/DISAPPEAR. OF

TO: W. Kirk, Superintendent
FROM: W. West, TUFCO Representative
RE: Request for a bulletin board.
DATE: May 10, 1984

As a representative of TUFCO, I request that a bulletin board be placed adjacent to the Council 82 bulletin board in the line up room. The members of TUFCO feel that they are entitled to have a bulletin board (see attached).

To save any confrontations with the State of New York or Council 82, all postings will be submitted to you for your review before being posted.

Thank you for your cooperation.

W & West

*To be
used To file
charges for
Removal from
Federation*

Rev



STATE OF NEW YORK
GOVERNOR'S OFFICE OF EMPLOYEE RELATIONS
AGENCY BUILDING NO. 2
ALBANY, NEW YORK 12223

7-16-84 cc: R. Bischerz
F. Benedetto
H. Chase
J. Puma
JWB:kd

THOMAS F. HARTNETT
DIRECTOR

NANCY L. HODES
EXECUTIVE DEPUTY DIRECTOR
JOSEPH M. BRESS
GENERAL COUNSEL

July 12, 1984

Jeffrey H. Brozyna, Esq.
313 Washington Avenue
Albany, New York 12206

Dear Mr. Brozyna:

Regarding your letter dated June 21, 1984, many of the incidents recited are new to me. However, I will address the issues raised.

1. The State of New York will not and cannot discipline a State employee solely for signing a TUFCA petition card. The information you impart in your paragraph numbered 1 is heretofore unreported. I will reiterate to you now and Council 82 via a copy of this letter that campaigning shall not be condoned on work time in work areas. Violation of this rule can result in disciplinary action.

As to the representations that you allege are being made by Council 82 regarding TUFCA cards, I can do no more than state what I have above.

2. The work rule prohibiting campaigning on work time in work areas applies to the allegations made in paragraph numbered 2. However, I cannot comment on whether any revocation slips are valid or fraudulent since that will be an issue decided by PERB.

3. I am sure you do not wish to imply that John W. Burke, Executive Director of Council 82 had any connection with alleged death threats because OER is the wrong agency for reports of criminal activity. No allegation is made that Council 82 has threatened Mr. West.

4. The testimony of certain TUFCA adherents adduced before an administrative law judge of PERB regarding the Council 82 bulletin board at Fishkill will be evaluated by PERB with respect to whether the State of New York through OER or the Department of Correctional Services was guilty of any improper practices. The sworn testimony of Superintendent Theodore Reid of Fishkill Correctional Facility adduced on June 22, 1984 indicated that remedial action was undertaken with respect to the bulletin board issue after the receipt of the

Details of Charge filed in Case Nos. U-7385 and U-7406. Superintendent Reid further testified that additional remedial action was taken after the June 18th testimony referred to above and that no complaints about the postings on Council 82's bulletin board had been received in the interim between the filing of charges and the June 18th hearing.

5. With respect to Sgt. Bruce Farrell, you are well aware that the occurrence at Downstate on June 13, 1984 led to extensive discussions between Mr. Dautner, Mr. O'Donnell and yourself to ensure equal opportunities for TUFCO and Council 82 to obtain the presence of witnesses at the pending hearing before PERB. Special arrangements concerning subpoena service to be effective only during the hearings before PERB concerning Case Nos. U-7373, U-7385 and U-7406 were agreed to by all three parties on or about June 15, 1984. In addition, the materials that Council 82 attempted to serve upon Sgt. Farrell were confiscated by representatives of the facility. At the request of Sgt. Farrell, these materials were returned to him.

6. As stated in my earlier letters, campaign material is not permitted on Council 82 bulletin boards, however, each facility administration determines after review of posted material whether such material is campaign material or not. As stated above, campaigning or distribution of campaign literature is not permitted on work time or in work areas.

Understand that each facility administration has the authority to administer these rules subject to the main programmatic needs of the Department--security. Unless this office is notified of alleged violations it can only expect that the campaign rules are being followed.

Copies of this correspondence is being sent to both Council 82 and the Department of Correctional Services for their information and instruction.

I trust this letter addresses the issues you raise, and the copies to Council 82 and DOCS reinforces our policy regarding a fair and equal campaign. Your letter of July 10, 1984 has been received and a response will be forthcoming.

Sincerely,

Walter J. Pellegrini
Deputy Counsel

cc: Thomas F. Hartnett
Joseph M. Bress
Thomas A. Gibbs
✓ John W. Burke
John J. Cassidy



STATE OF NEW YORK
GOVERNOR'S OFFICE OF EMPLOYEE RELATIONS
AGENCY BUILDING NO. 2
ALBANY, NEW YORK 12223

7-16-84 cc: R. Bischoff
F. Benedetto
H. Chase
J. Puma
JWB:kd

THOMAS F. HARTNETT
DIRECTOR

NANCY L. HODES
EXECUTIVE DEPUTY DIRECTOR
JOSEPH M. BRESS
GENERAL COUNSEL

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Sincerely,

Walter J. Pellegrini
Deputy Counsel

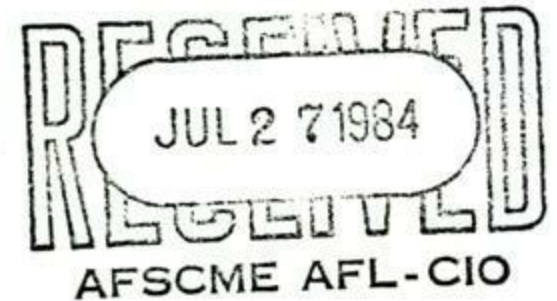
cc: Thomas F. Hartnett
Joseph M. Bress
Thomas A. Gibbs
✓ John W. Burke
John J. Cassidy



UNITED STATES POST OFFICE
ELMIRA, NY 14901

July 17, 1984

COUNCIL 82



American Agriculturist
P.O. Box 516
Ithaca, N.Y. 14850

Gentlemen:

A determination has been made regarding the improperly made Business Bulk Mailing of February 21, 1984 on your Permit # 13 on behalf of THE UNITED FEDERATION OF CORRECTION OFFICERS, INC.

The organization is not an integral part of your firm, with the only common factor being that the National Casualty Insurance Company is the Agent for your firm, and TUFECO Inc. It would not be out of the realm of possibility that National Casualty is also the Agent for many other organizations, however this does not meet the criteria for sharing or using a client's assigned Bulk Business Mail Permit.

Therefore, it is our decision to find that this mail should not have been mailed on the permit of another, and since TUFECO does not have a permit at our office, declare it to be a Revenue Deficiency of \$361.53. This amount was arrived at by taking the number of pieces in the mailing, 4017, times the .09¢ difference between the .11¢ charged and the single piece rate for third class mail, which is .20¢.

Furthermore, please be advised that it is not permissible to mail matter for other than your organization under your permit for Bulk Business Mail, and your Permit Imprint.

The above mentioned Revenue Deficiency should be taken care of as soon as possible, but no longer than 90 days from the receipt of this letter. This would mean a target date of October 18, 1984 for payment to have been made. Thank you for your understanding in this matter, and should you have a question regarding this Deficiency, please contact me at (607) 734-5188.

Sincerely,

Richard L. Dalton

Richard L. Dalton
Manager, Customer Services
U.S. Postal Service
Elmira, N.Y. 14901-9998

7/27/84 cc file

*Original to C. Gardner
7-30-84*

*cc: R. Bischoff
H. Chase
A. Benedetto
J. Puma*

JWB:ka

UNITED STATES POST OFFICE

U. S. Postal Service
Richard L. Dalton
Manager, Customer Services
Elmira, N. Y. 14901

OFFICIAL BUSINESS
EP194

PENALTY FOR PRIVATE MAIL
TO AVOID PAYMENT
OF POSTAGE, \$300

U.S. MAIL

Attn: Christopher Gardner
Associate Counsel

Security & Law Enforcement Emp Council #82
AMERICAN FEDERATION OF STATE & COUNTY &
MUNICIPAL EMPLOYEES AFL-CIO
63 Colvin Avenue
Albany, NY 12206

D O N ' T G E T A Z E R O

WHEN NO AGREEMENT HAS BEEN REACHED AFTER NEGOTIATION, MEDIATION AND FACT-FINDING, THE TAYLOR LAW PROVIDES THAT THE LEGISLATURE "SHALL - - CONDUCT A PUBLIC HEARING" AND THEREAFTER "TAKE SUCH ACTION AS IT DEEMS TO BE IN THE PUBLIC INTEREST." IN OTHER WORDS, AT THE END OF THE PROCESS, IF THERE IS NO NEW AGREEMENT, THE LEGISLATURE CAN IMPOSE MANAGEMENT'S CONTRACT TERMS. THE LATEST COURT DECISION HAS HELD THAT THE SO CALLED TRIBOROUGH AMENDMENT WHICH CONTINUES CONTRACT TERMS DURING NEGOTIATIONS DOES NOT REPEAL THE PROVISIONS OF LAW GIVING THE LEGISLATURE POWER TO IMPOSE CONTRACT TERMS WHERE THERE IS NO NEW AGREEMENT. YOU ALL KNOW WHAT MANAGEMENT'S CONTRACT TERMS MEAN, THEY MEAN LOSS OF BENEFITS NEGOTIATED IN EARLIER CONTRACTS.

COUNCIL 82 HAS SUCCESSFULLY NEGOTIATED ALL 6 CONTRACTS FOR THE SECURITY SERVICES UNIT SINCE THE TAYLOR LAW WAS PASSED.

COUNCIL 82 HAS NEVER GIVEN BACK A SINGLE CONTRACT BENEFIT ONCE IT WAS NEGOTIATED.

HOW MANY CONTRACTS HAS THE MAKE BELIEVE UNION
NEGOTIATED???? Z E R O

HOW MANY CONTRACT GRIEVANCES HAS THE MAKE BELIEVE
UNION ARBITRATED???? Z E R O

HOW MANY FULL TIME PROFESSIONAL STAFF DOES THE MAKE
BELIEVE UNION HAVE ON ITS PAYROLL NOW???? Z E R O

HOW MANY DISCIPLINARY GRIEVANCES HAS THE MAKE BELIEVE
UNION ARBITRATED???? Z E R O

A MAKE BELIEVE UNION = = = = = Z E R O

WHAT WILL YOU GET IF YOU GET A MAKE BELIEVE UNION???? Z E R O

THE AGITATORS AND THEIR MAKE BELIEVE UNION WANT TO TRY TO LEARN TO BE A UNION AT YOUR EXPENSE AND AT THE RISK OF EVERYTHING WE'VE GAINED OVER THE LAST FIFTEEN YEARS

THEIR BIGGEST CLAIM IS THAT THE COUNCIL CONTRACT WILL CONTINUE TILL THE LEGISLATURE DECIDES OTHERWISE.

THE STATE IS ALWAYS TRYING TO TAKE AWAY OUR BENEFITS EVERY TIME WE BARGAIN FOR A NEW CONTRACT. COUNCIL 82 HAS NEVER LET THEM GET AWAY WITH IT.

PROTECT YOUR NEGOTIATED RIGHTS AND BENEFITS.

STAY WITH THE REAL UNION THAT WON AND KEPT
EVERYONE OF THOSE BENEFITS FOR YOU.

STAY WITH THE REAL UNION THAT HAS THE STAFF,
THE EXPERIENCE AND THE RESOURCES TO PROTECT
EXISTING CONTRACT BENEFITS AND WIN NEW BENEFITS
FOR ALL OF US.

STAY WITH COUNCIL 82 - - - - THE REAL UNION.

DON'T GET A ZERO. DON'T LISTEN TO THE FAIRY TALES FROM THE ZEROS
WHO ARE TRYING TO SELL YOU THEIR MAKE BELIEVE UNION. DON'T GET A ZERO.
DON'T SIGN CARDS FOR THE MAKE BELIEVE UNION.

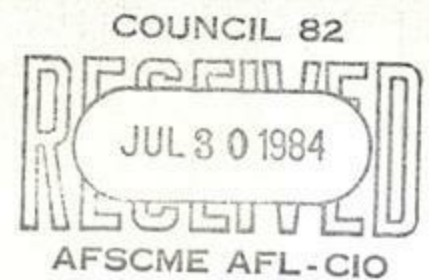
OUR STRENGTH AND PROTECTION IS IN UNION SOLIDARITY
AND A REAL UNION.

OUR STRENGTH AND PROTECTION IS IN COUNCIL 82.

LOCAL 1255

TO: N.Y.S CORRECTION OFFICERS
COUNCIL 82
TUFCO

FROM: JOHN BORDI, CORRECTION OFFICER



There is the old saying "two heads are better than one", but there may be situations that require yet another solution to a set of problems. Such a case in point is the existing infrastructure of support systems and services for New York State Correction Officers: AFL-CIO, TUFCO, and COBA. Lets examine these support systems under a central theme - NEW YORK STATE CORRECTION OFFICERS.

The time has come for the realization of two basic facts that are all-to-often ignored, but are pivotal to the solutions sought after by AFL-CIO, TUFCO, and COBA.

New York State Correction Officers contribute \$500,000.00 a half million dollars each and every single year to the coffers of the AFL-CIO in Washington D.C. and for 99% of the time - each and every single year do we, the Correction Officers of New York State, ever see a penny of it, use it directly, or even control what is done with these funds; let alone the sheer interest collected and invested.

That any politician, in any state, that received such a return of such huge amounts of monies would certainly face a sound defeat in a election recall with horrific press coverage and demands for investigations for years.

And what are the Correction Officers of this fine state doing? Adding yet another union? Why add something that already exists when consolidation of present state support services and withdrawal from national albatross could perhaps create the finest lobbying force possible for ourselves. Please - ponder with me and think of the possibilities - let alone of the ramifications.

The current negotiating rules and regulation procedures that should keep the administration and officers in synchronization do exist, but are all-too-often ignored and not properly forced into a strong negotiating perspective for the correction officer. The AFL-CIO, (AFSCME, COUNCIL 82) in Albany has, at times, certainly displayed the expertise, but nowadays lacks the necessary luster because Correction Officers are but a part of their organizational structure. On the other hand, the TUFCO and COBA organizations possess all of the necessary motivation and drive but lack in experience and funding.

An evident answer now begins to appear on the horizon for the New York State Correction Officer. Why send half a million dollars, per year, out of state when we can correctly unionize and organize ourselves, fund ourselves hire the finest staff available from these existing support services, and really get matters accomplished for ourselves. Does anyone seriously believe that we couldn't hire, with \$500,000.00 per year, the best bargaining organization specifically targeted for NEW YORK STATE CORRECTION OFFICERS?

Or should we continue to send half a million dollars per year to the bureaucratic jungle that does not meet our concerns full time - only needing our money constantly and probably weakening our present structure with two unions vying at each others throats rather than our issues and concerns?

The solution will take hard work, organizational motivation and money. Ninety percent of all such union efforts start with only the hard work and organizational motivation.

Why do I suddenly feel so stupid?

7-30-84
cc: F. Benedetto
H. Chase
J. Puma
J. Mann
S. Tartarozzo
JWB:kd

John Bordi

RECEIVED
APR 30 1984

STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD

----- X
In the Matter of :

STATE OF NEW YORK and THE UNION OF :
FEDERATED CORRECTION OFFICERS, :
:
Respondents, :
:
- and - :

NEW YORK STATE INSPECTION, SECURITY :
AND LAW ENFORCEMENT EMPLOYEES, :
DISTRICT COUNCIL 82, AMERICAN FEDERA- :
TION OF STATE, COUNTY AND MUNICIPAL :
EMPLOYEES, AFL-CIO, :

Charging Party. :
----- X

AFSCME AFL-CIO

ANSWER
Case No. U-7375

The Union of Federated Correction Officers (hereinafter referred to as "TUFCO"), Respondent, as and for its answer to the charge and amended charge herein, upon information and belief:

1. Admits the allegations contained in paragraphs a, b, c and e of the charge.
2. Denies the allegations contained in paragraphs f and l of the charge, as well as any allegations not otherwise specifically dealt with herein.
3. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the vague or open-ended allegations contained in paragraphs h, j and k

4-30-84
cc: Frank B.
Dick
Holly
Puma
ka

of the charge

4. With respect to the allegations of paragraph c of the charge, alleges that The Union of Federated Correction Officers is an unincorporated association, and admits that it is an employee organization within the meaning of the Taylor Law, but alleges that the United Federation of Correction Officers, Inc., is merely a not-for-profit corporation organized by TUFCO's leaders for the purpose of providing the corporation's membership with a variety of recreational and tax-sheltered benefits.

5. denies that the State of New York has failed to enforce its "rules" governing access to employees for organizing purposes, and refers the charging party to TUFCO's own charges in PERB Case Nos. U-7385 and U-7406.

6. With respect to the allegations of paragraph i of the charge, admits that officers Farrell, VanHouten, Stephens and McKinney, solicited authorization cards, as is detailed in TUFCO's aforementioned charges, but denies that said solicitation was in any way unlawful, and denies that such card solicitation constitutes an improper practice.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE
RESPONDENT TUFCO ALLEGES AS FOLLOWS:

7. The charging party's "unchallenged representation status" is not adversely affected by TUFCO's alleged collection

of authorization cards within the six-month time period allowed therefor by PERB Rule 201.4(b).

AS AND FOR A SECOND AFFIRMATIVE DEFENSE
RESPONDENT TUFCO ALLEGES AS FOLLOWS:

8. PERB does not have jurisdiction to enforce Office of Employee Relations "guidelines."

AS AND FOR A THIRD AFFIRMATIVE DEFENSE,
RESPONDENT TUFCO ALLEGES AS FOLLOWS:

9. After receiving the charge herein, TUFCO duly moved, pursuant to PERB Rule 204.3(b), for an order directing the charging party to file a verified statement specifying certain particulars of the vague and open-ended charges herein.

10. On April 11, 1984, a PERB Administrative Law Judge ("ALJ") granted the motion, in part, and ordered the charging party to file and serve a verified statement satisfying parts 1, 2 and 3 of TUFCO's demand for particulars. The ALJ ordered the charging party to do so on or before April 20, 1984.

11. On or about April 20, 1984, the charging party served and filed a paper styled a "Particularization of Charge" in which the said charging party purports to reserve its "rights" to "supplement its particularization" without regard to the Administrative Law Judge's April 20 deadline.

12. Certain allegations of the charge herein, even as "particularized," are still so vague and open-ended that Respondent TUFCO cannot reasonably be expected to frame an answer and or marshall evidence in its defense thereof.

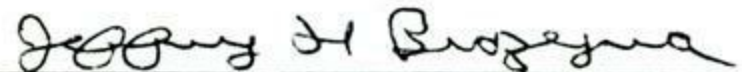
13. Therefore, the charging party should be precluded from giving any evidence at the hearing as to the matters which it has refused to particularize.

WHEREFORE, respondent TUFCO respectfully requests that PERB issue an order dismissing the charge in all respects.

VERIFICATION


STATE OF NEW YORK)
) ss.:
 COUNTY OF ALBANY)

JEFFREY H. BROZYNA, being duly sworn, deposes and says, that he is the attorney for the respondent TUFCO above named, and that he has read the above answer, and is familiar with the facts alleged therein, which facts he knows to be true, except as to those matters which are alleged upon information belief, which matters he believes to be true.



Jeffrey H. Brozyna

Sworn to before me this
 27th day of April, 1984



Notary Public
 J. MICHAEL BETTER
 Notary Public, State of New York
 Certified in Albany County
 My Commission Expires March 30 1985

STATE OF NEW YORK
COUNTY OF ALBANY SS:

AFFIDAVIT OF
SERVICE BY MAIL

Nancy K. Stockwell , being duly sworn, deposes and says that he is over the age of 18 years; that he served the within Answer in PERB Case No. U-7375 upon the following at the following time(s) and place(s) in the following manner *April 27* , 1984

New York State Inspection,
Security and Law Enforcement
Employees, District Council 82,
AFSCME, AFL-CIO
63 Colvin Avenue
Albany, New York 12206

State of New York
Department of Correctional
Services
State Office Bldg. #2
Albany, New York 12226

State of New York
Office of Employee Relations
Agency Bldg. #2, E.S.P.
Albany, New York 12223

Brian J. O'Donnell, Esq.
Rowley, Forrest & O'Donnell, P.C.
90 State Street
Albany, New York 12207

by depositing a true and correct copy of the same properly enclosed in a post-paid wrapper in the Official Depository maintained and exclusively controlled by the United States at 118 Bradford Street, Albany, New York, directed to said parties respectively, at said address(es), respectively mentioned above, that being the address(es) within the state designated for that purpose upon the last papers served in this action or the place where the above then resided or kept offices, according to the best information which can be conveniently obtained.

X Nancy K. Stockwell

Sworn to before me this
27th day of *April* , 1984.

Jeffery H. Brozyna
Notary Public

JEFFERY H. BROZYNA
Notary Public, State of New York
Qualified in Schenectady County
Commission Expires March 30, 19*86*