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To: All AFM Local Presidents and Secretaries  
From: AFM Convention Counsel  
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Subject: Campaign Conduct for Local, International Office

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In conjunction with the 101<sup>st</sup> Convention of the American Federation of Musicians, Local officers and convention delegates will be involved in the political process as it affects the highest level of union administration. Elections of union officers are regulated by the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA). Violations of the LMRDA can have serious consequences. The Department of Labor (DOL) investigates and will require a re-election if it concludes that violations have taken place that may have affected the outcome of the election. In particular, the Act expressly prohibits the use of union funds and facilities in support of any candidate.

To guard against any potential violations of the Act, we present a brief review of the limitations the Act imposes on campaign conduct. The emphasis here is on guidelines for Local Union activities, although we discuss conduct by individual candidates for office as well. Potential candidates for International office may receive additional information on the conduct of their activities upon written request to the AFM President's Office, 1501 Broadway, Suite 600, New York, NY 10036; Fax (212) 764-6134. These guidelines are applicable to any election activities, whether International or Local. (Note: Canadian Locals are not required to observe the mandates of the LMRDA for Local elections; however, they are required to observe these regulations when their activities relate to the election of International officers or convention delegates or alternate delegates, in accordance with Article 5, Section 23-24(b) of the AFM Bylaws.) We also discuss the rules regarding the election of convention delegates.

## **CAMPAIGN CONDUCT**

- 1) It is illegal for any candidate to send out his or her campaign literature: (a) on Federation or Local stationery; or (b) on stationery that contains the Federation or any Local letterhead or logo; or (c) in any other format that conveys the message that the candidate is being endorsed by the Federation, his or her Local or another Local, or any entity affiliated with the Federation (e.g., RMA, RMAC, ICSOM, ROPA, OCSM/OMOSC, TMA). This conduct is prohibited even if the individual candidate provides reimbursement for the actual costs of the stationery, etc.
- 2) It is unlawful for a candidate to use the facilities (e.g., telephone, photocopy machines, postage meters, fax machines, computers) of any local Union, the International union, any conference, any fund or any employer. The prohibition on using Union, conference,

fund or employer computers and modems means that candidates and their supporters may not send or forward campaign material via e-mail from such a computer or e-mail address. This conduct is illegal even if the individual candidate provides reimbursement for the actual costs of the telephones, photocopying, internet service provider, etc.

The proliferation of Facebook (and other social media) pages in the name of AFM Locals has raised another possible issue. Often, the picture associated with a Local's Facebook page is the union's logo. If the Local "friends" a candidate's campaign social media page, or becomes a "fan," the Local's name and/or logo appears on the candidate's page as a "friend" or "fan." That could be construed as the Local using its resources to endorse the candidate. This is a new area without firm DOL guidance, but to avoid potential problems, Locals should not become friends or fans of candidates, whether or not the Local's Facebook page uses the union's logo.

3) It is unlawful for any official union publication (e.g., the *International Musician*, any Local newsletter, or players conference newsletter) to include any editorial or article that could reasonably be construed as endorsing a particular candidate or supporting that individual's candidacy. Of course, news stories or photographs that *accurately report* any newsworthy event, and in so doing, mention an individual's accomplishments—such as serving as chief negotiator in successfully concluded collective bargaining negotiations—are not illegal even though they may improve the candidate's image as a union leader.

It should be noted that the DOL permits union publications to reserve a "battle page" in which *all* candidates for union office are given *equal space* to present their statement of reasons why they should be elected. The law does *not* require a union publication to include a battle page; it is strictly up to each Local or player conference to decide if it wishes to do so.

Locals are cautioned that implementing a battle page for an International election raises myriad logistical concerns not experienced when providing a battle page for Local elections. Locals considering such a page for the upcoming International elections should immediately seek the advice of the AFM's Convention Counsel by contacting the AFM President's Office in writing.

4) It is illegal for a union to compensate or reimburse any candidate for expenses incurred (e.g., transportation or hotel bill) while that individual is engaged in political campaigning. However, it is permissible for a candidate to be reimbursed for expenses incurred in conducting legitimate union activities, even if on that same trip he or she also engages in campaigning where that campaigning is "incidental" to conducting legitimate union business. For example, if a member of the International Executive Board (who is also a candidate for office) is assigned by the AFM President to represent the AFM at a conference, then it is lawful for that individual to engage in informal campaigning after the close of conference business sessions. (The fact that his or her trip is paid for by the AFM is lawful so long as the IEB member is on legitimate union business

and confines his or her campaigning activities to periods of time that are outside the business for which the trip is made.)

No campaigning by *any* candidate or by any person in support of a candidate should take place during official conference sessions.

5) It is unlawful for any candidate for union office to accept campaign contributions from any *employer* (e.g., recording company, motion picture studio fund or any other entity that falls within the broad definition of an “employer” including employers who are entirely unrelated to the music business). “Campaign contributions” are not limited to monetary contributions; in-kind contributions are also unlawful. This is an area in which the DOL has taken a very expansive view of its authority to set aside elections.

#### ELECTING DELEGATES

Delegates to the AFM Convention must be elected in conformity with Article 17, Section 26 of the AFM Bylaws. That article provides that “All Local Union Delegates and alternate Delegates to AFM Conventions must be nominated and elected in conformity with Local and FM laws and in conformity with the Labor-Management Reporting and Disclosure Act of 1959, as amended. In elections of Local Officers, Convention Delegates and alternate Delegates, no vote shall be counted for a person who has not been duly nominated.”

The AFM Bylaws further provide (in Article 17, Section 5) that, “Delegates to the Convention (and alternates for those Delegates who may be unable to attend the sessions) shall be elected by the Locals either at annual, regular or special meetings, or at regular or special elections, but in any event, by secret ballot. At least 15 days prior to the election of Delegates, notice of the election shall be mailed by the Local to the last known home address of each member in good standing. Elections in violation of this law are null and void.”

All delegates to the Convention must, therefore, be elected by secret ballot. That includes Local Officers who are designated as Convention delegates by virtue of their office by their Local bylaws. In those cases where a Local Officer is *appointed* to fill a vacancy in an office that includes a designation as a delegate by virtue of office, that Officer must subsequently be elected as a delegate by secret ballot. No delegates who are not elected in this manner will be seated at the Convention.

Canadian Locals please note that while elections of Canadian Local officers generally do not have to be conducted in accordance with the LMRDA, if any Canadian delegate is a delegate solely by reason of having been elected as an officer, that officer election must have been conducted in accordance with the LMRDA.

Finally, as provided by Article 17, Section 7 of the AFM Bylaws, “No member shall be permitted to represent more than one Local, nor shall members be permitted to act as Delegates for a Local unless they are full members in good standing in that Local.”