

GEB Approves Amendment to Certain Trial Board Provisions of the Uniform Local Union Constitution and the Uniform District Council Constitution

By unanimous vote on July 8, 2004, the General Executive Board approved certain changes to Article XII, Section 3 of both the Uniform Local Union Constitution and the Uniform District Council Constitution pertaining to trial board proceedings. These amendments followed a decision issued by the Appellate Officer on May 12, 2004, in a case known as Loscalzo v. Keir. That case specifically limited the authority of the General President in cases of conflict to refer trial board charges to a District Council or to the Independent Hearing Officer in accordance with the Union's past practice. The amendments are intended to restore the General President's discretion to refer such charges. The General Executive Board decided that the changes would take effect with the date of the Loscalzo decision. The full text of the GEB Resolution containing the amended constitutional provisions and showing the changes from the prior sections follows:

**RESOLUTION TO AMEND ARTICLE XII, SECTION 3
OF THE UNIFORM LOCAL UNION CONSTITUTION
AND THE UNIFORM DISTRICT COUNCIL CONSTITUTION**

WHEREAS, it has been the custom and practice that where one or more members of a Trial Board are disqualified, application may be made to the General President who may, in turn, then assume original jurisdiction for the purpose of referring the matter for hearing and decision to the appropriate District Council or to the Independent Hearing Officer;

AND WHEREAS, by decision issued May 12, 2004, in the case of Loscalzo, et al v. Keir, 2004 A.O. 73, the Appellate Officer ruled that only where the entire Executive Board appears to be disqualified from sitting as a Trial Board does the Uniform Local Union Constitution permit the Local Union to relinquish its role in conducting a Trial Board hearing;

AND WHEREAS, it is the judgment of the General Executive Board that the prior custom and practice in this regard have allowed for free and impartial trial board proceedings, properly recognized the autonomy of the affiliated Local Union or District Council where the charge(s) was originally filed, and allowed the General President discretion in appropriate circumstances to evaluate the situation and as appropriate to refer a matter where an Executive board member(s), but not the entire Executive Board, is subject to disqualification;

NOW, THEREFORE, BE IT RESOLVED that Article XII, Section 3 of the Uniform Local Union Constitution be revised and amended, in relevant part, to provide as follows:

Where ~~the entire~~ **one or more members of the** Executive Board of a Local Union ~~appears~~ **appear** to be disqualified, the matter may be referred to the General President who shall be entitled to investigate to determine whether such disqualification exists. Upon a finding of disqualification, the General President shall have discretion to assume original jurisdiction over such charges, in which case the matter shall be referred to the Independent Hearing Officer to hear such charges for decision and disposition; or, in the General President's discretion, the charges may be referred to the appropriate District Council for trial.

AND, THEREFORE, BE IT FURTHER RESOLVED that Article XII, Section 3 of the Uniform District Council be revised and amended in relevant part to provide as follows:

Where ~~the entire~~ **one or more members of the** Executive Board of a District Council ~~appears~~ **appear** to be disqualified, the matter may be referred to the General President who shall be entitled to investigate to determine whether such disqualification exists. Upon a finding of disqualification, the General President shall have discretion to assume original jurisdiction over such charges, in which case the General President shall refer the matter to the Independent Hearing Officer to hear such charges or decision and disposition.

The foregoing revisions and amendments shall be subject to ratification by the delegates to the next General Convention of the International Union in accordance with Article VIII, Section 2(b) of the International Union Constitution.