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Via email to: [jrivlin@afscme.org](mailto:jrivlin@afscme.org)  
Judith Rivlin, General Counsel  
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Via email to: [franco@workerlaw.com](mailto:franco@workerlaw.com)  
Danielle Franco-Malone  
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**Re: Response to Franco-Malone Letter of July 16**

Dear Ms. Rivlin and Ms. Franco-Malone,

Ms. Franco-Malone's letter of yesterday requires correction.

First and foremost, the Council 2 Constitution does not vest the Executive Board with the authority to set the **time and date** of the bi-annual convention. In fact, there is not even an advisory role for the Executive Board for this decision. The power to set the date and time is expressly reserved for "the president, in consultation with the officers" of Council 2. Art. V, Sec. 1(C). While Art. V, Sec. 1(A) gives the Executive Board authority to advise on the **location** of the Convention, it gives no similar authority with respect to the selection of the **date or time**. Accordingly, whether or not Mr. Maycock was present for such discussions is entirely irrelevant; the President and the Officers are responsible for selecting the dates for the Convention, and the limitations on those dates are clearly contained within the Constitution.

Moreover, if Council 2 wishes to have a meeting outside of the specific window specified for conventions it can do so. It just cannot be the bi-annual "constitutional convention" – and is instead a "special meeting". *See*, Art. 5, Sec. 2. Such a meeting would be limited to the type of business permitted by the Constitution. *Id.* From my reading, and as of this date, this is the only type of meeting that would be appropriately held in August.

Second, as to the identity of my clients, I made my communication on behalf of all of my clients: Colin Maycock, Jael Komac, Local 114 and Local 1849. But this is of little consequence. The Constitution prescribes rights to all members of Council 2. Your insistence that Mr. Maycock is somehow estopped from complaining since he was at the meeting where the dates were discussed suggests a certain misunderstanding of what a Constitution actually is; as, it is not just Mr. Maycock's rights that are implicated but the rights of all members who are protected by the Constitution's provisions.

Mr. Maycock did not discover the Constitutional provision limiting the dates for the convention until he was forced to review the instrument himself having been told by the Council 2 staff representative that Mr. Maycock's proposed constitutional amendment was untimely. Had Mr. Maycock been aware of the Constitution's limitation concerning dates for the convention at the Executive Board meeting when this matter was discussed, then he certainly would have raised the issue. It is somewhat shocking that a volunteer President of a Local Union, and volunteer member of the Executive Board of Council 2, is expected to know the intricacies of the Council 2 Constitution; yet, the highly-paid President and Staff of Council 2 – who actually have the responsibility to select the date for the Convention – clearly had no idea about this provision in the Constitution.

Quite simply, this latest situation is Mr. Dugovich's fault, and instead of working to resolve the matter in accord with the Constitution he has clearly decided to forge ahead; notwithstanding that in the event that Mr. Dugovich is reelected to serve as President of Council 2 that any such election will be subject to challenge by any member of Council 2. Realistic of the practical difficulties to unwind action taken at a defective convention, we are exploring what prospective relief might be available should Council 2 continue to insist on not following its own constitutional constraints. While we understand that there might be some financial cost associated with the change to a constitutionally permissible date, we think the membership deserves the opportunity to attend and would note parenthetically that such a sum likely a miniscule fraction of Mr. Dugovich's annual salary. I wholeheartedly agree with you that it is unfair that the membership at large bear the expense of Mr. Dugovich's error and I would suggest that it might be worth considering having him defray the cost.

In sum, again my clients and I are left with the conviction that Council 2 picks and chooses the rules it wants to follow when it wants to follow them, and apparently black-and-white rules can even be ignored when convenient for the President and Officers. In the event that the date is not changed, I naturally request that you please provide us with a list as to what terms of the Constitution apply, and which do not.

Regards,

s/ Nick Power

Nicholas Power

NEDP:

cc. Client