

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
DIVISION OF JUDGES**

INTERNATIONAL UNION OF BRICKLAYERS  
AND ALLIED CRAFTSMEN, AFL-CIO, AND ITS  
CENTRAL MICHIGAN ADMINISTRATIVE DISTRICT  
COUNCIL

and

Case 7-CA-33506

URSULA SCHRADER, an Individual

*Richard F. Czubaj, Esq.*, for the General Counsel.

*Christopher P. Legghio, Esq.*,

of Detroit, MI,

for Respondent, Central Michigan Administrative District Council.

*Wilma B. Liebman, Esq.*,

of Washington, D.C.,

for Respondent, International Union of Bricklayers and Allied Craftsmen, AFL-CIO.

*Randie K. Black, Esq.*,

of Okemos, MI,

for Ursula Schrader, the Charging Party.

**DECISION**

*WILLIAM A. POPE, II*, Administrative Law Judge. This case was tried in Detroit, Michigan, between January 11, 1993, and May 13, 1993<sup>1</sup>. The charge was filed on July 22, 1992, and the complaint was issued September 9, 1992.

**Background**

On April 7, 1992, the Executive Board of the International Union of Bricklayers (the "IU"), exercising authority granted to it under the IU's constitution, established a Central Michigan Administrative District Council, effective April 30, 1992, to be located in Ann Arbor, Michigan, and ordered that eleven Michigan local Bricklayers unions affiliate with it.<sup>2</sup> Until the creation of the District Council, the eleven Bricklayers local unions operated independently from separate offices scattered across the State of Michigan. Each local union employed a business manager, and three of the local unions, Bricklayers Local Union 12 (Flint, Michigan), Bricklayers

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<sup>1</sup> The Respondents' motion to dismiss the Complaint at the conclusion of the General Counsel's case was denied by written Order, dated May 10, 1993.

<sup>2</sup> The District Council established by the IU on April 7, 1992, became effective on April 30, 1992. The formation of the District Council was part of an on-going effort by the IU to streamline functions of local unions, increase their operating efficiency, and enhance their organizing and collective bargaining activities. The IU's Constitution gave it the authority to order local unions "to form, join and remain affiliated with District Councils." The IU official most directly involved in the formation of the Central Michigan Administrative District Council was Thomas McClanahan, the IU's Director of Regionalization Programs.

Local Union 14 (Ypsilanti, Michigan), and Bricklayers Local Union 31 (Lansing, Michigan), employed secretaries.<sup>3</sup> The newly created District Council took over all of the affiliated local unions' routine administrative functions, including dues collection, record keeping, disbursements, fringe benefit administration, and collective bargaining and contract administration and enforcement. The IU's order also provides, however, that each of the local unions will remain "intact as a politically autonomous organization and will continue to conduct local union meetings."

Exercising its authority to designate officers in newly-formed district councils for a period of up to two years, the IU's Executive Board appointed the business manager of Bricklayers Local Union 31, Daryl Hollenback, to be the initial Director of the District Council.<sup>4</sup> The IU also appointed the initial members of the District Council's Executive Committee, and the initial 10 field representatives of the District Council.<sup>5</sup> The IU directed that the District Council's offices be established in the offices formerly occupied by Bricklayers Local Union 14 in Ypsilanti, Michigan.<sup>6</sup>

After the District Council was formed, Director Hollenback appointed a Management Committee, which consisted of Hollenback and five other members of the Executive Committee, including Sam Palazzolo, the former business manager of Bricklayers Local Union 14. Hollenback also appointed Palazzolo to be his administrative assistant.

The two secretaries employed by Bricklayers Local Union 14, Elaine Frye and Linda Ryznar, were transferred to the District Council's payroll in June 1992. While employed by Local 14, they had been represented for collective bargaining purposes by Teamsters Local Union 164, which had a collective bargaining agreement with Local 14. The collective bargaining agreement had a successor clause, and Teamsters Local Union 164 continued to represent the two women after they went to work for the District Council.

Ursula Schrader, the Charging Party, began working part-time for Bricklayers Local Union 31 as a secretary in July 1987, and became its full-time secretary, and only clerical employee, in July 1989. Her supervisor was Local 31's business manager, Daryl Hollenback. Her employment by Local 31 was terminated when she was laid off in June 1992, after Hollenback assumed his duties as Director of the District Council and the District Council took over the functions she previously performed for Local 31.

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<sup>3</sup> Bricklayers Local Unions 12 and 31 each employed one secretary; Local Union 14, the largest of the Bricklayers local unions, employed two secretaries.

<sup>4</sup> The position of Executive Director of the District Council was hotly contested by Hollenback, Sam Palazzolo, Business Manager of Bricklayers Local Union 14, and David Fraim, Business Manager of Local Union 12. The selection of Hollenback to be the Director was recommended by Louis Weir, the IU's Executive Vice President, and was approved by the IU's Executive Board.

<sup>5</sup> All of the affiliated local unions were represented on the IU-appointed Executive Committee, except Local Union 21. Representatives from nine of the affiliated local unions were appointed to be the initial field representatives of the District Council.

<sup>6</sup> The selection of the offices of Bricklayers Local Union 14 as the site of the new District Council's offices was made by the IU's Executive Board on the recommendation of IU Vice President Weir. Selection of Local Union 14's offices for the District Council's office was said to have been based on factors such as that Local Union 14 had the largest suite of offices, and possessed a better computer system than any of the other local unions. Another unstated factor may have been to appease Local Union 14's business manager, Sam Palazzolo, who was a long-time labor union leader and had wanted but was not selected to be the District Council's first Director. Local Union 14 still retains an office adjacent to its former offices, now occupied by the District Council.

5 In 1990, Schrader joined Teamsters Local Union 164 at Daryl Hollenback's insistence. Hollenback voluntarily recognized the union, and Hollenback negotiated a collective-bargaining contract between Bricklayers Local Union 31 and Teamsters Local Union 164 covering Schrader for the period from January 1, 1990, through June 30, 1991. Sometime in 1991, Schrader transferred her union membership from Teamsters Local Union 164 to Teamsters Local Union 580, which was located nearer her home. The collective-bargaining agreement between Bricklayers Local Union 31 and Teamsters Local Union 164 was not renewed after it expired, and Hollenback refused to voluntarily recognize or bargain with Teamsters Local Union 580, which then represented Schrader.

10 The Constitution of the District Council, which was adopted at the District Council's first convention on May 12, 1992, provides that the "Director shall hire office employees for any positions he/she determines to be required for the efficient administration of the Central Michigan Administrative District Council; he/she shall establish the terms and conditions of employment for all such positions, subject to approval by the Executive Committee."

15 At issue in this case is the failure of the District Council to hire Charging Party Ursula Schrader as one of its secretaries. Respondent District Council does not dispute that Schrader had more seniority, when seniority is measured by the time she worked for a Bricklayers local union, than one of the two secretaries hired by the District Council. According to Respondent District Council, at the time the charge in this case was filed, Elaine Frye, one of the two secretaries hired by the District Council, had 19 years seniority as an employee of Local Union 14, and Linda Ryznar, the other secretary hired by the District Council, had four years seniority as an employee of Bricklayers Local Union 14. Charging Party Schrader, who was not hired by the District Council, had approximately five years seniority as an employee of Bricklayers Local Union 31.

### 25 Issues

30 The Complaint alleges that the Respondents violated Section 8(a)(1) and (3) by Respondent International Union's appointment of Daryl Hollenback as Director of the Central Michigan Administrative District Council, and by the discriminatory failure of Respondent Central Michigan Administrative District Council, acting through its agent, Daryl Hollenback, to offer a job the Charging Party a job at the District Council in retaliation for her continued preference for Teamsters Local 580 rather than Teamsters Local 164, thereby discouraging membership in a labor organization.

35 In its Answer to the Complaint, Respondent IU denied that it violated the Act as alleged in the Complaint, but admitted that both it and the District Council are labor organizations and employers, within the meaning of the Act, and that the District Council is affiliated with the IU. The IU also admitted that the two Teamsters Local Unions are labor organizations within the meaning of the Act. The IU admitted that Daryl Hollenback was the business manager of Local 31, and since mid-April 1992 has been the District Council Director, and that Thomas McClanahan was at all material times an international vice-president of the IU. The IU admitted that it ordered the formation on April 7, 1992, of the District Council with offices to be located in Ann Arbor, Michigan, and appointed Daryl Hollenback to be the District Council's initial director.

40 In its Answer to the Complaint, Respondent District Council also denied that it violated the Act, as alleged in the Complaint, but admitted that it is a labor organization within the meaning of the Act, and that it is an affiliate of the IU. The District Council admitted that both it and the IU are employers within the meaning of the Act, and that Daryl Hollenback is the

business manager of Local 31 and since mid-April 1992 is the District Council's Executive Director. The District Council also admitted that on April 7, 1992, the IU ordered its formation with offices in Ann Arbor, Michigan, and appointed Daryl Hollenback as its initial director.

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The General Counsel and the Charging Party argue that the Respondents refused to hire the Charging Party as a secretary for the District Council, because she challenged the authority of Daryl Hollenback by selecting Teamsters Local 580 to represent her instead of Hollenback's hand-picked Teamsters Local 164. General Counsel asserts that Daryl Hollenback as an admitted liar cannot be trusted to tell the truth. According to General Counsel and the Charging Party, relations between the Charging Party and Hollenback, her immediate supervisor, were good, until she transferred her union membership from Teamsters Local 164 to Teamsters Local 850, an action which angered Hollenback and caused him to threaten her with more onerous working conditions and even discharge. Hollenback told her that he wanted her as his secretary if he got the job as director of the pending District Council, but only if she terminated her relationship with Teamsters Local 580. General Counsel and the Charging Party contend that Hollenback had the sole authority to hire secretaries for the District Council, and that he made the decision to hire the two secretaries then employed by Bricklayers Local Union 14, and to not hire the Charging Party. They dispute that either the District Council's executive committee or its management committee decided on who to hire as secretaries. General Counsel and the Charging Party rely on tape recordings of conversations between the Charging Party and Hollenback, made by the Charging Party without Hollenback's knowledge, to corroborate her testimony. The IU's liability, according to the General Counsel, results from the fact that at the time the Charging Party was not offered employment with the District Council, the District Council did not exist as its own entity, but operated under the control of the IU, and acted as the IU's agent.

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The District Council contends that the General Counsel has failed to meet its burden of proof in this case, because no violation of the Act has been established; therefore, the Complaint should be dismissed. Respondent District Council argues that the Charging Party never applied for a District Council clerical job, and that, in any event, Daryl Hollenback made no decision not to offer her a job with the District Council and did not influence anyone else not to hire her. According to Respondent District Council, the clerical hiring decision was made by the Management Committee and the Executive Committee of the District Council during its formative period. Sam Palazzolo, the former business manager of Bricklayers Local 14, repeatedly urged the Council and its committees to hire Local 14's two secretaries, stating that the District Council was legally bound to do that by a successor clause in the collective bargaining agreement between Bricklayers Local 14 and Teamsters Local 164, and even said that if the District Council did not hire them it would be over his dead body. According to Respondent District Council, the Management and Executive Committees "acquiesced, without Mr. Hollenback's control or influence, to Mr. Palazzolo's untested assertions." Respondent District Council asserts that while it is unclear when the decision was made to assume Local 14's contract with Teamsters Local 164, and no formal vote was taken, it is absolutely clear that the Management and Executive Committees, and not Daryl Hollenback, decided to assume Local 14's clerical agreement by hiring Local 14's two secretaries as the secretaries for the District Council. The possibility of hiring the Charging Party, Respondent District Council points out, was never discussed by either the Executive or Management Committees. Moreover, argues the District Council, Daryl Hollenback did not 'abdicate' his authority to hire the District Council's clerical staff, because the extent of his authority was not clear during the District Council's planning meetings before the May convention which ratified its constitution. Finally, Respondent District Council argues that the tape recordings made by the Charging Party do not establish that he made any decision not to hire her out of union animus; at best they show no

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5 more than an earlier 8(a)(3) violation by Local Union 31. Hollenback was not legally obligated to submit the Charging Party's name for consideration for a District Council clerical job, and all proofs point to the fact that he never even thought about her during deliberations to hire the District Council's clerical staff.

10 The International Union contends that the idea of forming an Administrative District Council in Central Michigan originated with the local unions, whose officers met with Thomas McClanahan, the IU's Director of Regionalization Programs, in late 1991 and early 1992 to discuss the concept. McClanahan's role was to guide the local unions in structuring their district council. On April 7, 1992, the Executive Board of the IU established a Central Michigan Administrative District Council, and the Executive Board also exercised its authority to designate officers in the newly formed District Council for a period of two years. The IU argues that the choice of Daryl Hollenback to be the Director of the District Council was recommended by IU Executive Vice President Louis Weir, who was unaware of any problems between  
15 Hollenback and Charging Party Schrader. The IU states that the employment of office secretaries by the District Council was strictly a matter of District Council business in which the IU played no role. The IU contends that neither McClanahan nor anyone else from the IU participated in discussions concerning the hiring of the District Council's secretaries, or took any position with respect to Charging Party Schrader. McClanahan's only involvement with  
20 Schrader was in the Fall of 1991, when he learned of an NLRB case, based on a charge by Schrader, against Local 31, involving discriminatory reduction in her hours at Local 31 because of her Teamsters Union membership. McClanahan determined that a default judgment had been entered against Local 31, and he thought the case had nothing to do with the formation of the District Council. The IU further contends that McClanahan had not previously run into the situation in which office employees of a Bricklayers Local Union belonged to a different union, and when he pointed out to Hollenback that the clerical staff of Bricklayers affiliates could join the Bricklayers Union, Hollenback asked him to talk to Schrader about it. According to the IU, McClanahan did talk with Ms. Schrader about joining the Bricklayers Union, and thought that she seemed receptive, and that would solve the problem. The IU states that McClanahan did not hear anything further from Ms. Schrader, and did not know that she had not been hired as a secretary for the District Council, until June 1992, when she called him and said she had been  
30 laid off by Hollenback. The IU concludes that the officers and employees of the District Council are not officers, employees, or representatives of the IU, and have no authority to act on behalf of or bind the IU. The IU seeks dismissal of the charges against it, because there is no evidence of retaliatory motive or conduct on the part of the IU against Ms. Schrader, the IU has no vicarious liability for the acts of the its affiliated District Council, and it did not participate in or ratify any unlawful conduct against Ms. Schrader by the District Council. The IU also argues  
35 that it has no legal duty to correct any alleged unlawful acts of its affiliated District Council.

I

40 Ursula Schrader started as a part-time employee of Local 31 in June 1987, working 20 hours a week, and then in July 1989 she was made its full-time secretary and office employee. She was laid off by Local 31 on June 4, 1992.

45 Her duties as secretary with Bricklayers Local 31 were to answer the telephone, do typing and filing, and receive and deposit members' dues. Her immediate supervisor was Daryl Hollenback, who was the Business Manager of Local 31. In June 1990, at Hollenback's insistence, she joined Teamsters Local 164, located in Jackson, Michigan, a one-half hour drive from her home in Lansing, Michigan. Hollenback explained that it was necessary for her to be covered by a pension plan, and he wanted her to affiliate with Teamsters Local 164, and not the

5 Teamsters local union in Lansing, Michigan, where Schrader lives. Schrader said that her choice was either to join Teamsters Local 164, or give up her job. Hollenback negotiated a collective bargaining agreement with Dennis Hands, the business agent of Teamsters Local 164, covering Schrader as an employee of Bricklayers Local Union 31.

10 Schrader stated that she had asked Hollenback why she could not be in the Bricklayers Union, and that she told Hollenback at the outset that she would rather join Teamsters Local 580, located in Lansing, Michigan, where she lives. Later, when she told Hollenback she would like to transfer to Teamsters Local 580, Hollenback told her that he would get rid of her if she did. She said that Hollenback repeated the threat when he received letters from Teamsters Local 580 and Teamsters Local 164 about her transfer to Local 580. She said that she signed a transfer slip transferring her membership to Local 580 in August 1991, and after that Hollenback told her that he did not trust her any more because she had gone behind his back and joined Teamsters Local 580. Hollenback said that he was told by Tom McClanahan, a representative of the International Union, to get the situation straightened out or get rid of her.

20 In August 1991, Schrader spoke with McClanahan by telephone. She said that McClanahan told her that Daryl Hollenback was under consideration for the position of director of the district council. She said that she felt from the conversation, however, that Hollenback had been selected for the position. McClanahan told her that he had heard from Daryl Hollenback that there were some problems between her and Hollenback, and he said he told Hollenback to straighten them out because she was one reason the International Union had picked Hollenback to head the District Council. He said that he wanted Hollenback and Schrader to come as a team. She said that McClanahan asked her how she gotten into the Teamsters in the first place, and why Hollenback had not put her in the Bricklayers Union. She told him that was what she had wanted, and she had asked Hollenback why she could not be in the Bricklayers Union. McClanahan told her that if she dropped her membership in Teamsters Local 580, she could be put under contract with the Bricklayers. She told him that Teamsters Local 580 was willing to let her go if she had a good contract with the Bricklayers.

30 Schrader stated that she recalled a conversation with Hollenback on September 18, 1991, in which he told her that he had heard that it was definite that the International Union was going to form a district council in Michigan, and he said they were both up for jobs. He told her that she was not to repeat to anyone else anything he said. He said that McClanahan had told him that one reason he had been picked to head the district council was that they came as a matched set. He asked her if she wanted to stay with Local 580 or take the job in Ypsilanti with the district council. She told Hollenback that she wanted the job in Ypsilanti, and she would do whatever she could to get the problem with Local 580 resolved. On September 18, however, Teamsters Local 580 filed a grievance on her behalf protesting against Bricklayers Local 31 cutting her hours of work.

40 The next day, September 19, 1991, Hollenback said he had spoken with Tom McClanahan, and had told him that he thought he could get the problem with Schrader worked out. He told her that they had been selected as a team, and if she cooperated she had no place to go but up; if she did not cooperate she would be out. Schrader said she told Hollenback she would talk to Teamsters Local 580. Hollenback told her she would have to get rid of Teamsters Local 580 because the International Bricklayers Union did not want the Teamsters to be part of the Bricklayers organization. He said that Schrader had a choice, she could either have the job with the district council or stay with Teamsters Local 580, and she would be out. Schrader said that the next day, September 20, 1991, Hollenback told her that his attorney, Christopher Legghio had told him there were other ways to get rid of Teamsters

Local 580, and not to trust her. Hollenback said that Legghio had told him she might have a tape recorder so not to talk to her.

5           Schrader stated that the first official notice she had that Hollenback would be the  
Director of the District Council was in an April 7, 1992, letter. The letter also said that the  
District Council would be located in Ypsilanti, Michigan. Until shortly before that, she had  
thought that it would be in Lansing, Michigan. She stated that she had heard a lot of discussion  
10           about who would be the director, and that Hollenback had told her that Dave Fraim, the  
business agent of Bricklayers Local 12, wanted the job. Sam Palazzolo, the business agent of  
Bricklayers Local 14 had told her that he, too, wanted the appointment. She stated that she did  
not ask Palazzolo to consider her for a position with the district council, although he had asked  
her if she would be his secretary, and she had agreed she would.

15           Schrader admitted that she did not fill out an application for a job at the District Council.  
She agreed that Daryl Hollenback did not offer her a job with the District Council after April 7,  
1992. She said that no one on the Executive Committee of the District Council told her that she  
had been considered as a possible employee of the District Council. She said that in May  
1992, however, Daryl Hollenback said that the team players would be at the District Council.  
He said he could hire and fire whoever he wanted.

20           Ms. Schrader gave three reasons why she felt she should have been considered for a  
job with the District Council; first, her conversation with Thomas McClanahan in 1991; second,  
conversations with Hollenback in 1991; and, third, because of clauses in her contract  
(apparently referring to clauses in the collective-bargaining agreement covering her between  
Teamsters Local 164 and Bricklayers Local 31). She agreed that after September 1991,  
25           Hollenback gave her "the silent treatment" most of the time. She agreed that Hollenback did  
not offer her a job with the District Council in February 1992, or on April 13 or April 14, 1992.  
She further agreed that the most recent time Hollenback promised her a job with the District  
Council was in September 1991, seven months before he was appointed to be the director.  
She said that she still thought that she had a job with the District Council in April 1992. She  
admitted that Hollenback did not ask her in April 1992 if she was still interested in a job with the  
30           District Council. She said that she had told Hollenback towards the end of 1991 or the first of  
1992 that she wanted a job with the District Council wherever it was located.

## II

35           The warning allegedly given to Hollenback that Schrader might be tape recording their  
conversations turned out to be prophetic. As it turns out, Schrader made at least six tape  
recordings of her conversations with Hollenback starting in August 1991, and ending in 1992.  
She used a hidden voice activated tape recorder which she carried to her office in her pocket.  
The tape recordings of her conversations with Hollenback which were admitted into evidence  
were made during the first week of August 1991, on September 16, 18, 19, 1991, on February  
40           17, 1992, and on April 14, 1992.

45           In conversations which Schrader recorded during the period from August 1991 to April  
1992, Daryl Hollenback, who was then the business agent of Bricklayers Local Union 31,  
repeatedly expressed his intention to obtain the appointment as the first director of the planned  
District Council, and his determination not to let anything stand in his way in getting the job. In  
his own words:

I Want to tell you Sue, I want to tell the god's honest truth, I am going to get that directorship, I am going to get it.

5 Later, Hollenback was even more explicit in stating he would not let his problems with Schrader stand in his way of getting the job:

10 I'm just trying to tell you that I'm not without options. All that was going on here, even though [?] I get mad, I say things and do things, ok, but I don't wish you any ill will. I fully intend to be that director, I fully intend to have that happen. Any problems that I got that, that is going [to] jeopardize that position, I must cure. I want to put all this behind us, and I'm going to get all my ducks in a row in a position so that when all this falls into place, I'm setting right there in the god damn cat bird seat, just the way we been scheming to do for the last four years.

15 Hollenback unequivocally told Schrader that he would get her a job with the District Council, on two conditions. First, that he got the job of the director of the district council, and second that she terminate her membership and involvement with Teamsters Local 580. In Hollenback's words:

20 If we can ever pull off this god-damn union regionalization thing and if I get the job, there's a damn good job in that for you. But, but that's no promise and I don't know if I can pull it off. I worked three years on it now and it ain't happened but, but it looks to me like it gets closer all the time. I'm hoping that's what's [inaudible]. But this is all up to you, because I can also tell you something, I ain't having somebody working for me that sneaks around behind my back, that ain't goina happen.

25 That reference, and numerous others like it, in context, clearly referred to his displeasure with Schrader's involvement with Teamsters Local 580, and his resentment over what he perceived to be attempts by Teamsters Local 580 officials to interfere in the affairs of Bricklayers Local 31. Referring to demands apparently made by Teamsters Local 580 for a salary increase for Schrader, Hollenback told her that "I'm tired of it and it's going to god-damn stop." He told Schrader that meant "I won't sign no god-damn agreement with anybody." In a later conversation, Hollenback, in an apparent reference to Teamsters Local 580, said:

30 But I'm also going to tell you, I fully thoroughly resent that third party, I thoroughly resent that. Now that's where most of my negative reactions have been coming from.

35 Not only did Hollenback make it clear to Schrader that he would never voluntarily recognize Teamsters Local 580 as her collective bargaining agent, or enter into a collective bargaining agreement with it, he repeatedly attempted to induce her to sever her relationship with Teamsters Local 580 by falsely stating that the International Union of Bricklayers would not accept her involvement with Teamsters Local 580. On one occasion he told Schrader that "The IU has certain things that they absolutely require. They absolutely require. I'll tell you, the Teamsters ain't part of it." Hollenback went on to say on the same occasion concerning the District Council and the Bricklayers International Union that:

40 But I'm going to tell the god's honest truth, Sue, I want you with me. I don't know anybody that knows that computer as well as you do, but I'm going to tell something else just as true. If I can't [inaudible] I won't have those Teamsters with me. We can't have an agreement with them, we can't, that's period. I was told that. So if, I can't have you, then, then I just won't. [Inaudible]

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What they suggested was is that you join the bricklayers, a separate contract be drawn for you. That we pay into the IU as of right now. [Inaudible] We've got to get you into that secretary position. They want me to go to, I got to go down south to a meeting here. [Inaudible] We got to [inaudible]. So we're 99% there now and I mean there you and me and [inaudible]. We're going to take a hit in our dues [inaudible]. If there's any way to do it, try to get her in, into that health insurance plan that you guys have going. Try to get her in that thing. Look [inaudible] but if she's against you, if she's working at logger heads with you, you get rid of her and you get rid of her now because she can kill you. That's their words. Now you and I both know that, we have had [inaudible] before and I don't plan on being killed. So the decisions are all yours.

Hollenback specifically referred to Thomas McClanahan, the International Union's Director of Regionalization Projects, in the following statement that he made to Schrader:

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You know Tom McClanahan, I talked to Tom today too, you know what Tom said? I run some of this stuff by him first. Tom said look, he said I've met your secretary a couple of times, ah. He said have things gone beyond where you two absolutely can't work together because I was quite impressed; I thought that she could handle the other girls that would have to work under her. I said, Tom, you know she can and she could, but I got a hell of a mess with the Teamsters, just can't have that, can't have that. He said some political advise, some political advise to you, whatever mess you got in your office, you straighten it out, you straighten it out with her or you straighten it out without her, but you straighten it out. That's my options. I mean that's my options. I'm between a rock and a hard place too, I got them telling me one thing, and I got these two jokers jerking me around here.

Hollenback told Schrader that he would not get the directorship of the district council if he signed an agreement with Teamsters Local Union 580.

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The second I sign it, I don't get the directorship, within a years' time, you and I both lose [our] jobs. Because the International Union absolutely will not have the Teamsters within their organization, because the Teamsters are the kiss of god damn death to any union. The government is after the Teamsters constantly. And that's spinning out your way. I know it's a hell of a load on your shoulders but you know what the hell to do.

Hollenback continued to dangle the prospect of a job with District Council before Schrader, but only if she cooperated by terminating her involvement with Teamsters Local 580:

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So you see now the position that I'm into. So one thing I will accomplish, that is guaranteed, I will get rid of those Teamsters, they are going to go. They can go easy or they can go tough. But go they're going to. The only thing that is left is, what role you play. That's the only thing left. I can't tell you what to do. I can't, I can't say here I, Sue I've made you this terrific offer, so on and so forth, and then, because if you take that to them, then that whole scenario is over. I can't offer that job [inaudible]. You won't get it, it won't happen. Then you know what I did is, then I'd get the tough fight with the Teamsters, guaranteed.

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But, you know, there's just a lot of ways you can spin this god damn out, it may come down to where I don't get the job, but you might well get your portion of it. I mean, that's a picture to paint too. Now where, what helps both of us is when we go as a matched set. I mean I want that better paying job. I want the opportunity because some day I want to work right directly for the IU. That's what I want. And this is a step to help me get there. And I want that better paying job because I want that position because I think I, I think I can do some stuff with this damn state. You have an opportunity to have a shot at that, that

next level too. You just have to decide how you are going to play it. These are all political questions. And I'll tell you, its like any politics, sometimes you lose.

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So you and I have either got to get, we either have to be on each others side and that's the best. You have to look out for me and I have to look out for you, and we got to start pushing on this thing even more than we have done, so that when it is tossed, we get it as a matched set. That's the best way.

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In a recorded conversation on April 14, 1992, Schrader asked Hollenback who the other secretary for the District Council would be, and received the following evasive answer:

Ms. Schrader: Here's that letter. So Elaine is going to be one of the secretaries down there [one of the District Council's secretaries]. Who's going to be the other one?

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Mr. Hollenback: I don't know yet. They've got a -- I won't know for sure until after all this stuff is put together because even though if business agents, myself and the executive committee has been appointed nothing is official.

It's official but there is no entity there and there is no district council and there won't be until it's officially acted on, the 12th I believe it will be.

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So where it's all going to take I have got to go in and find out what kind of an agreement they have got with the Teamsters and if there is a successor clause there, all that kind of stuff. Just a myriad of details, just a myriad of details. But because its going to Ann Arbor, you know, Elaine --

Ms. Schrader: Yes, she has been saying that right along.

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Mr. Hollenback: Yes. Well, of course Sam [Sam Palazzolo, business agent of Local 14] has been saying a lot of stuff right along that wasn't true and the issue got blurred for a lot of different people.

III

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On April 7, 1992, Daryl Hollenback was appointed by the IU's Executive Committee to be the Director of the Central Michigan Administrative District Council and Chairman of its Executive Committee. The initial members of the Executive Committee were appointed by the IU, but Hollenback appointed the members of the Management Committee, who serve at his pleasure, and as the Director he supervises the day-to-day activities of the field agents. The Constitution of the District Council, adopted at the District Council's first convention on May 12, 1992, gives the Director the authority to hire office employees, as he determines are needed, and gives him the authority to establish the terms and conditions of employment for such positions, subject to approval by the Executive Committee.

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In testimony given on March 8, 1993, Hollenback answered, "I may have," to the question, "Did you ever tell Ms. Schrader that the two of you worked well together and if you became the Director, you would want her working with you?" He admitted that he never considered her for a secretarial job with the District Council, after he was appointed to the job of Director of the District Council. He said that by then she had accused him of legal improprieties with money and he did not know how he could work with a person like that. He also said that he did not raise her name with the Executive Committee as a candidate for a secretarial job.

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The parties entered into a stipulation that on November 12, 1991, the Michigan Employment Relations Commission issued a decision in which it refused to conduct an election

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5 for a single-employee unit at Local 31, in response to a petition filed by Teamsters Local 580 on behalf of Sue (Ursula) Schrader. The Parties further stipulated that an earlier petition for an election was also filed with and rejected by the NLRB, and that Teamsters Local 580 never had a collective bargaining agreement with Bricklayers Local 31.

10 Hollenback admitted in his testimony that he "didn't like those people at 580," then or now. He also said that he was upset when he learned in August 1991 that Schrader had transferred her union membership to Teamsters Local 580. He said that he thought she should have come to him first. He admitted that he may have told her that he would never enter into a union agreement with Teamsters Local 580. He admitted that he lied when he told Ms. Schrader that he had been told that he could not have an agreement with Teamsters Local 580. He admitted that "nobody told me anything."

15 Hollenback said that he discussed his problems with Ms. Schrader with Thomas McClanahan, "Only in a very general sense." He admitted that he had not discussed the problem with the Teamsters specifically with McClanahan. Hollenback acknowledged that he told Schrader that he had told Thomas McClanahan that he had "a hell of a mess with Teamsters," and that he could not have that. He also admitted that he had never said that to Thomas McClanahan. He admitted that he was willing to take "certain liberties" and to lie to get the problem resolved.

20 Hollenback acknowledged that he told Schrader that McClanahan had said "you straighten it out with her or you straighten it out without her, but you straighten it out. So that's my options." He admitted that Thomas McClanahan had not made those statements to him.

25 Hollenback said that he wanted the director's job, and that he viewed the problem he had in his office, referring to Schrader and her relationship with Teamsters Local 580, as a threat to his getting the position. When he told Schrader that she was part of a package, he meant that she would go with him. He admitted that at that time, September 1991, he would have taken Schrader with him to the District Council, but that the problem with the Teamsters had to go. He said that by April 20, 1992, however, he was no longer sure that Schrader wanted a job at the District Council, because by then their relationship had turned into a strictly business relationship, and she had not expressed any desire to go to work for the District Council. He also said that he did not recall that she had said anything indicating that she did not want a job at the District Council.

35 Hollenback acknowledged that the District Council assumed a collective bargaining agreement with Teamsters Local 164 covering the two clerical employees formerly employed by Bricklayers Local Union 14 who now work for the District Council. Hollenback stated he was present when Sam Palazzolo spoke by telephone to Dennis Hands, the business agent for Teamsters Local Union 164, and told Hands that the District Council would honor the agreement between Teamsters Local Union 164 and Bricklayers Local Union 14, covering the two clerical employees (Linda and Elaine) of Local 14 who became clerical employees of the District Council.

40 Hollenback stated that the contract he had negotiated with Dennis Hands, of Teamsters Local Union 164, covering Ms. Schrader, expired in June 1991. He stated that he did not negotiate a replacement agreement with Teamsters Local Union 164, or a new agreement with Teamsters Local Union 580.

Sometime in the Fall of 1991, as part of his lobbying effort to obtain the job of director of the District Council, Hollenback visited Thomas McClanahan at the latter's office in Indiana. He admitted that he did not discuss Ms. Schrader with McClanahan during that meeting. He said that his conversation with McClanahan concerned how the district council would work. Hollenback said that he received no indication from McClanahan during that meeting that he would be selected to be director of the district council when it was formed. He also said that McClanahan did not indicate at that time where the district council would be located. Hollenback said that he assumed at the time that the district council would be located in Lansing, Michigan.

Hollenback denied that he made the decision not to offer Ms. Schrader a job at the District Council's office, or that he made the decision to hire the two secretaries employed by Local 14 as the secretaries of the District Council. He admitted however, that he made the decision not to hire a third secretary for the District Council. He said the District Council could not afford it, and there was no need for a third secretary.

Hollenback said that the District Council's Management Committee, composed of himself, Sam Palazzolo, David Frame, David Blake, and Larry Spoffitt met several times between April 7 and April 20, 1992, and discussed matters such as the dues structure for journeymen and apprentices, and the wages the field representatives of the District Council would receive. Hollenback said that during some or all of these meetings, Sam Palazzolo raised the issue that Bricklayers Local Union 14's contract with the Teamsters Local Union 164 which had a successor clause in it.<sup>7</sup> Hollenback denied that he said at any meeting of the Management Committee that he wanted Local 14's contract with the Teamsters to be assumed by the District Council. He said that the District Council's Executive Committee on its own decided to assume the contract with Teamsters Local 164 at its April 20, 1992, meeting.

Hollenback said that Ms. Schrader's name never came up as a candidate for a job at the District Council during Management Committee meetings.<sup>8</sup> He denied that because of her affiliation with Teamsters Local Union 580 he did not bring up Ms. Schrader as someone interested in a secretarial job at the District Council, and he denied any recollection that he told Sam Palazzolo that if Ms. Schrader was hired it would be over his dead body. He admitted that he would not hire Ms. Schrader, but said that was because he did not trust her anymore after she had accused him of some "serious things."

Hollenback denied that he knew that Ms. Schrader was interested in a job at the District Council in Ypsilanti in April 1992. He denied that he was silent and inactive in selecting who to hire for clerical positions at the District Council, and he denied that he intended to prevent the hiring of Ms. Schrader by being silent or inactive. He said that although he now knows that under the District Council's constitution he has the authority to hire clerical employees, he had

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<sup>7</sup> Dennis Hands, the President and agent of Teamsters Local 164 testified that he received a telephone call from Sam Palazzolo, who said "Dennis, we're going to a District Council. We're not going to have any problems with the contract. It will stay in place. The gals will keep their seniority. We will keep everything the way it is." Hands said that Palazzolo did not say where he got the authority to make that commitment. He said also that he did not have any discussion with Hollenback about who would be the secretaries for the District Council.

<sup>8</sup> Hollenback said that Hazel King, the wife of the business manager of Bricklayers Local Union, had expressed an interest in employment at the District Council, but her name did not come up during meetings of the Management Committee.

not read the constitution in detail in April 1992.<sup>9</sup> He said that "Sam Palazzolo had made his proposals about the Local 14 secretaries on countless occasions. And it all just seemed to flow together." Hollenback testified that he did not believe that Elaine Frye or Linda Ryznar ever applied for their positions at the District Council.

Hollenback said that Sam Palazzolo brought up hiring the secretaries for Local 14 as the secretaries for the District Council at meetings between April 7, 1992, and the May 1992 District Council convention. He said he did not bring up hiring Ms. Schrader, nor did he indicate who the District Council should hire. He said no one disagreed with Palazzolo, when he said that Local 14 had a contract with Teamsters Local 164 covering its clerical employees, and that the contract had a successor clause in it. After April 7, 1992, the two Local 14 secretaries did the clerical work for the District Council, without any "grand announcement." He said that no one on the District Council's Executive Committee or Management Committee objected to assuming Local 14's contract. Hollenback said that he did not disagree with Palazzolo, even though he had not looked at Local 14's contract, and he said that he did not do anything to avoid hiring Ms. Schrader. Hollenback said that he did not tell the Executive Committee or the Management Committee that either of them could make the decision on who to hire as clerical employees for the District Council. He said that he did not believe that a formal vote on the clerical employees was taken at either an Executive Committee or Management Committee meeting.

In response to a question asking when it was decided to assume the contract with Teamsters Local 164 covering the two secretaries employed by Bricklayers Local 14, Hollenback said, "It was brought up in a number of different meetings. It was just a part of other actions that we were taking. . . At that point in time, it was just a small -- it was just a minor issue to deal with." Hollenback also admitted that as of the time of his testimony on May 12, 1993, he still had not looked at Bricklayers Local Union 14's contract to see if it has a successor clause, although he had told Ms. Schrader that he would. He denied that a decision had been made by April 14, 1992, to hire Elaine Frye as a secretary for the District Council.

Hollenback denied that he had ever promised Ms. Schrader a job with the District Council in the Ann Arbor-Ypsilanti area between June 1991 and June 1992. He said he did not have the authority to make such a promise. He said he did not recall telling her that he would transfer her. He said that he did not remember saying that he was going to take Ms. Schrader to the District Council, but he acknowledged that on different occasions he said that he would like to have her with him.

Hollenback said that he was sure that Sam Palazzolo at some point in time told the two secretaries employed by Bricklayers Local Union 14 that they would be the secretaries for the District Council. He said he did not recall telling that to them, nor did he authorize Palazzolo to tell them that they were now employees of the District Council. He said that either he told the secretaries to put themselves on the District Council's payroll, which they prepared, or Sam Palazzolo did. He said that the two secretaries sit where they sat when they worked for Local 14, working at the same desks, typewriters, and computers, and they receive the same pay and benefits.

#### IV

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<sup>9</sup> He also denied that anyone from the IU had told him he had the authority to offer Ms. Schrader a job at the District Council in 1991.

5 Louis Weir, the Executive Vice-President of the Bricklayers International Union, testified that the local unions are autonomous in many respects: they negotiate their own collective-bargaining agreements, collect their dues, elect their officers, organize their members, call strikes, define offenses, and impose penalties for those offenses. He said that the IU has no right to the funds and assets of the local unions, and does not control or interfere with the internal operations of the local unions.

10 Weir said that the Central Michigan Administrative District Council was established by order of the IU Executive Board, which also appointed the first director of the District Council and the members of its Executive Committee to serve for a period of two years. After that the director and the executive committee will be elected at special conventions of the constituent local unions. Weir said that he recommended that Daryl Hollenback be appointed as the first director of the District Council, and his recommendation was approved by the IU's Executive Board. He said that he recommended Hollenback because he knew him to be a good local  
15 union officer, who participated in the affairs of the Bricklayers Union. Weir said that he recommended that the District Council be located in Ypsilanti, Michigan, because he "wanted to throw a bone to Sam Palazzolo, and also because Local 14 was the largest local union in Michigan, and had the equipment and office staff to do the administrative work.

20 Weir said he did not know Ms. Schrader, and was not really aware of any problem that Hollenback had with her. He said that Hollenback may said something vague about having a problem with his secretary, but nothing specific. Hollenback said nothing about Teamsters Local 580, and Weir said that he did not know anything about Teamsters Local 580 at the time. He said that Thomas McClanahan had reported anything about a problem between Ms. Schrader and Hollenback. Weir said he did not participate in any discussion about who would  
25 be hired by the District Council as its office staff, and it is not a function of the IU to appoint the office staff of a newly created district council. He said he was unaware of discussions Hollenback may have had with Ms. Schrader about a secretarial position with the District Council, or hostility by Hollenback towards Ms. Schrader or Teamsters Local 580.

30 Weir testified that a district council cannot remove a local officer pending an appeal to the International Union. He said that the IU can override the constitution of an affiliate (local union or district council) if that constitution is not in conformity with the IU's constitution. He said that when the IU forms a district council, it also approves the constitution of the district council.

35 Thomas McClanahan testified that he first learned that Ms. Schrader had not been hired as a secretary by the District Council when she called him on June 4, 1992, and said she had been laid off by Local 31. He told her that he would try to send someone out to check into it, but later discovered no one would be available for the next week or so. After that, McClanahan asked Hollenback what the situation was and for what reason Ms. Schrader had been terminated. Hollenback said that the District Council had hired the two secretaries who worked  
40 for Local 14, and did not have the money to hire a third secretary. McClanahan said that he did not consider it to be abnormal for a district council the size of the Central Michigan Administrative District Council to have only two secretaries. McClanahan stated that he thought the Local 31 in Lansing, Michigan, did not have enough office space to house the District Council. McClanahan said that Sam Palazzolo talked to him not so much about locating the District Council in Ypsilanti as putting in his bid to be the Director of the District Council.

45 McClanahan said that he did not know whether or not Hollenback ever promised or offered Ms. Schrader a job with the District Council if she got out of Teamsters 580. He said

5 that Hollenback had never discussed with him which labor organization represented Ms. Schrader. He said he had no knowledge of the taped conversation between Hollenback and Ms. Schrader until he read the transcripts. He said that one of his duties was investigate whether there is pending litigation, and he was aware of the unfair labor charge against Local 31 filed on behalf of Ms. Schrader, and the default judgment which resulted. He concluded that the litigation would not affect the District Council, because he thought it was settled. He said he was not aware of any actions by Hollenback concerning Ms. Schrader which might have been an unfair labor practice or otherwise illegal, and he did not know whether Hollenback had conditioned a job for Ms. Schrader with the District Council on her abandoning Teamsters Local 10 580.

15 McClanahan said it was Vice President's Weir's idea to put the District Council in Ypsilanti. He said he did not report any problems to Weir involving Hollenback and Ms. Schrader. He said he made no recommendation to Weir concerning the location of the District Council.

20 McClanahan said that he did not think there was anything wrong with the District Council not hiring Ms. Schrader when she called him in June 1992, because the District Council had the authority to hire clerical employees and any other staffing they needed if funding allowed it. He said that he had no discussions with Ms. Schrader about her problems with Hollenback between October 1991 and June 1992.

25 McClanahan denied telling Hollenback that he had a terrible mess with the Teamsters and had to straighten it out. He said that he was surprised to learn in a conversation with Hollenback during 1991 that a clerical employee in the Bricklayers organization had a membership in the Teamsters Union. He said Hollenback had told him that he had been to an ARISA presentation at which he heard that he could not bring a clerical employee into his own organization. McClanahan told him that clerical employees could be brought in as a member of the Bricklayers Union in a support category. He said that Hollenback had told him that Teamsters Local 164 was not going to renew the contract, and that Teamsters Local 580 had contacted him. He said that he understood from Hollenback that he was negotiating with Local 30 580.

35 At Hollenback's request, he agreed to talk to Ms. Schrader. He said that she called him, and he told her that she could make a lateral move into the Bricklayers Union in a support category, where she would pay the same dues as an apprentice and would be able to participate in the same fringe benefit programs. He told her that such agreements were negotiated at the local level. Ms. Schrader said she had contacted the Teamsters and they had told her they would release her from membership in the Teamsters if there was a bona fide collective bargaining agreement for her with the Bricklayers. McClanahan told her there was no agreement in place and one would have to be developed. She said she did not trust Hollenback, and wanted a guarantee she would not be fired. She said that she and Hollenback had been arguing over day to day things in the office, and there had been a big blow up in the office, and the Teamsters had told her not to trust Hollenback. McClanahan said he told her that he did not have the authority as Director of Regionalization to give such guarantees. She asked about her part in the district council which was being formed, and he told her that he had 40

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no reason to believe that she would not be part of it. He did not recall if she said anything about demands Hollenback was making of her.<sup>10</sup>

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V

Sam Palazzolo testified that he was employed by the District Council from April 30, 1992, to January 15, 1993, when he retired. His title with the District Council was Administrative Assistant,<sup>11</sup> he was a member of the District Council's Executive Committee and its Management Committee, and he was also a field representative for Local 14. For 20 years before that, he was an officer of Bricklayers Local 14 in Ypsilanti, Michigan,<sup>12</sup> and for eleven years he was the business agent of Local 14.

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Palazzolo said that he had both a personal and business relationship with his two secretaries at Local 14, Elaine, who had worked for Local 14 since 1973, and Linda, who had worked for Local 14 for three years.

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He said that he had been appointed to the Management Committee by Daryl Hollenback, who appointed all of its members. He said that he did not ask Hollenback to hire Ms. Schrader as a secretary for the District Council, but Ms. Schrader had indicated to him sometime before April 1992 that she would like a job with the District Council as a secretary. He recalled there was a problem between Hollenback and Ms. Schrader, which had something to do with an accusation by Hollenback that Ms. Schrader had taken some money. He later learned that there was also a dispute concerning her union affiliation.

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Palazzolo said that at a Management Committee meeting he brought up that the clericals in his office (Local 14) had a contract with Teamsters Local 164, and that contract contained a successor clause that covered them if the local was merged with a District Council. At that time, he said, it was contemplated that two secretaries would be hired by the District Council. He said that he did not specifically recommend that the District Council assume the contract with Teamsters Local 164, but assumed that the Management Committee accepted it as his recommendation. He said that no one on the Management Committee objected.

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He stated that he never attended a meeting of the Executive Committee or the Management Committee at which there was discussion about hiring Sue Schrader, or not hiring her because she was a member of Teamsters Local 580. Palazzolo said he would have hired her.

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<sup>10</sup> Ms. Schrader testified that McClanahan's testimony was essentially correct. She said that at one point he said, "Don't worry. You're not going to be fired." She said she explained a money incident which had occurred and said that was the reason she did not trust Hollenback any more. She said that she was not opposed to joining the Bricklayers Union, and would have dropped her membership in Teamsters Local 580. She said that McClanahan told her she would have to be released by the Teamsters, and she followed his instructions by asking the Teamsters to release her, and they agreed to if she had a contract to get into. She said she was not offered a contract with the Teamsters by Hollenback.

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<sup>11</sup> Daryl Hollenback appointed Sam Palazzolo to the position of Administrative Assistant, and to be a member of the Management Committee. He said that he served in that position and as a member of the Management Committee at the pleasure of Hollenback.

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<sup>12</sup> Local 14's mailing address was Ypsilanti, Michigan, but it appears to have been interchangeably said to be located in Ann Arbor, Michigan, because it was located between the two cities.

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When asked who hired Linda and Elaine at the District Council, he replied "It would be a hard one to put your finger on. I guess that would be a responsibility for the Director, but that they were really hired or just came with the office, that is the way it was. It happened."

5 Palazzolo said that he would have to take the position that the Management Committee hired them. But, when asked if Hollenback could have hired any secretary he wanted, Palazzolo's response was: "That would have been over my dead body. That successor clause in the contract is binding, so --." Palazzolo admitted that he lobbied on behalf of his two secretaries to get them jobs with the District Council.

10 Palazzolo also recalled that when there was discussion in the summer of 1992 about hiring a third secretary, Palazzolo said he would not object if Ms. Schrader was hired. He recalled that Hollenback said something to the effect of over his dead body.

15 Palazzolo said he never heard Thomas McClanahan express an opinion about hiring Ms. Schrader, or say anything about hiring secretaries.

## VI

20 This case turns on the credibility, or lack of it, of three people: Ursula Schrader, the Charging Party; Daryl Hollenback, the Director of the District Council; and Thomas McClanahan, the International Union's Director of Regionalization Projects. There were a number of other witnesses called in this case, whose testimony I find credible, but not dispositive of any of the issues in this case.

25 The evidence of record in this case shows Daryl Hollenback to be very ambitious man, who, by his own admission, schemed for three or four years to obtain for himself the position he coveted as Director of the District Council when the IU formed it. He viewed that position as a stepping stone to a future position with the International Union. and made it clear that he would let nothing stand in his way of moving to positions of greater authority and power in the International Union of Bricklayers. I find from the evidence of record that he was willing to say whatever suited him in advancing his career, with no regard for the truth of what he said. He admitted that he lied to Ms. Schrader when he said that he was under pressure from the International Union to sever all relationships between Bricklayers Local Union 31 and Teamsters Local Union 580, and he lied when he attributed remarks to that effect to Thomas McClanahan and other unidentified officials of the International Union, which he admitted were not said to him by McClanahan or any other International Union representative. I have had the opportunity to observe and evaluate Hollenback's demeanor on the stand, and I find him to have been evasive and deceptive. Although he admitted to some falsehoods, he admitted only those which he could not deny because a tape recording was made of him saying them, and his falsehoods concerning pressure applied by the International Union and its representative, Thomas McClanahan. I find that he is not a credible witness.

40 I have also had the opportunity to observe the demeanor of Ursula Schrader and Thomas McClanahan, while they testified as a witnesses in this case. I find their demeanor to have been consistent with truthfulness and candidness and inconsistent with deceit and evasion. I have also evaluated their credibility as witnesses in this case by taking into consideration their motives or lack of motives to fabricate testimony, the impact truthfulness testimony might have on them personally, and the extent to which their testimony is reasonable or unreasonable and corroborated or uncorroborated by the testimony of other witnesses. After considering all of these factors, I find that both Ms. Schrader and McClanahan testified truthfully and I credit their testimony relevant to the issues in this case.

5 I find that the evidence of record is sufficient prove by a preponderance of the evidence that in September 1991, and earlier, Hollenback knew that Ms. Schrader wanted a job with the new District Counsel when it was formed, even if was located in Ypsilanti, Michigan, and he offered her the prospect of employment by the District Council as a secretary, if she complied with his demand that she sever her union affiliation with Teamsters Local Union 580. Hollenback told Ursula Schrader that he wanted her with him at the District Council as the District Council's secretary, subject to two conditions only, first that he get the job of director of the District Council, and, second, that she drop her membership in Teamsters Local Union 580. He told her that it would be helpful to both of them to go as a "matched set." As late as April 10 14, 1992, after he had been appointed by the Executive Committee of the International Union to be the Director of the District Council, effective April 30, 1992, Hollenback was still dangling the prospect of a job for her with the District Council before Ms. Schrader by saying that it was uncertain who would be picked for the second secretarial job at the District Council, when, in fact, he had no intention of offering the job to her. 15

One thing which is apparent from the evidence in this case is Daryl Hollenback's union animus concerning Teamsters Local Union 580. It is obvious from his statements to Ms. Schrader which she secretly tape recorded. He clearly stated that he would not recognize Teamsters Local Union 580 as her collective bargaining representative, and that he resented Local 580's interference in the affairs of Bricklayers Local Union 31. He said that he would not negotiate with them. He conditioned a job for Ms. Schrader at the District Council when it was formed upon her severing her relationship with Teamsters Local Union 580. He made it clear that he would not permit Teamsters Local Union 580 to become involved in the affairs of the District Council as her collective bargaining representative. He clearly told her that he wanted her with him, but not with Teamsters Local Union 580 as her collective bargaining representative. He said that the one thing he was going to accomplish was to get rid of Teamsters Local Union 580. In his words, 20 25

30 "So one thing I will accomplish, that is guaranteed, I will get rid of those Teamsters, they are going to go. They can go easy or they can go tough. But go they are going to. The only thing that is left is what role you play. That's the only thing that is left.

The evidence further establishes that Hollenback's animosity towards Teamsters Local Union 580 was specifically directed to that particular Teamsters local union, rather than based on some broader objection to the Teamsters Union in general. It was, after all, Hollenback who first induced Ms. Schrader to join a Teamsters local union in the first place, and he voluntarily recognized Teamsters Local Union 164 and he negotiated a collective bargaining agreement with it as her collective bargaining representative. His opposition to Teamsters Local Union 580 surfaced when she announced she wanted to transfer her union affiliation to it. While he made it clear he would have continued recognizing Teamsters Local Union 164 as her collective bargaining representative, he flatly refused to recognize Teamsters Local Union 580 in that capacity or to negotiate with it. Further demonstrating that Hollenback harbored no broad antipathy to the Teamsters Union in general, after the District Council was formed, and the two secretaries of Bricklayers Local Union 14 became the secretaries of the District Council, Hollenback continued to recognize Teamsters Local Union 164 as their collective bargaining representative. It is quite clear that Hollenback's animosity towards Teamsters Local Union 580 stemmed from his personal dislike for that particular union and its business representative and officers. 35 40 45

5 Daryl Hollenback's explicit and implicit promises made to Ursula Schrader before the District Council was formed that she would have a job with the District Council if she dropped her membership in Teamsters Local Union 580,<sup>13</sup> clearly discriminated against her because of her union affiliation, and constituted almost classic violations of Sections 8(a)(1) and (3) of the Act by Hollenback and his employer, at the time, Bricklayers Local Union 31. The remaining question is whether the Central Michigan Administrative District Council can be held to have violated the Act, as charged in this Complaint, because of its unlawful discrimination against her as a result of its failure to offer her a job after she had refused to comply with Hollenback's demand that she terminate her union affiliation with Teamsters Local Union 580.

10 The District Council argues that it cannot be held to have violated the Act because Daryl Hollenback did not select or hire the two secretaries formerly employed by Bricklayers Local Union 14 who were hired by the District Council to fill its clerical positions, and took no steps or actions to preclude or discourage the District Council from hiring Ursula Schrader. The District Council contends that it cannot be held responsible for any prior violations of the Act which Hollenback may have committed before he was appointed to the post of director of the District Council, because the District Council never considered Ms. Schrader for a clerical job and did not refuse to hire her for a secretarial position because she retained her membership in Teamsters Local Union 580 over the objections of Daryl Hollenback. I find no merit to the District Council's position.

20 The record shows that Sam Palazzolo, formerly the Business Representative of Bricklayers Local Union 14, and subsequently at all relevant times the Administrative Assistant at the District Council after it was formed, aggressively lobbied the District Council's Executive Committee and Management Committee on behalf of his two secretaries in an effort to have them hired by the District Council to fill the Council's two clerical positions, and stated many times that the District Council was obligated to hire them as its clerical staff because of the successor clause in the contract between Bricklayers Local Union 14 and Teamsters Local Union 164. There is no evidence that Daryl Hollenback or anyone else disputed Palazzolo's claim that the District Council was obligated under a successor clause in the contract between Local 14 and Teamsters Local 164 to hire the two secretaries of Local 14. But, neither is there any evidence that any other member of either the Executive Committee or the Management Committee, or, for that matter, Daryl Hollenback, who had been appointed to be the first Director of the District Council, ever read the contract between Local 14 and Teamsters Local 164.

35 There is no credible evidence in this case that either the District Council's Executive Committee or its Management Committee voted to hire the two secretaries of Local 14 as the secretaries for the District Council, or considered and did not hire Ursula Schrader for a clerical job with the District Council. Neither is there any evidence that either the Executive Committee or the Management voted to authorize the District Council to assume the collective bargaining contract between Bricklayers Local Union 14 and Teamsters Local Union 164, which covered Bricklayers Local 14's two secretaries, nor did either body vote to authorize Sam Palazzolo to

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45 <sup>13</sup> In September 1991 Hollenback also appeared to condition the offer to Ms. Schrader on his being appointed to the position of director of District Council when it was formed. I find that condition to be a ruse and to be irrelevant to a determination of whether the District Council violated the Act as alleged, because (1) it was obvious that unless he was appointed to be the director he would not be in a position to deliver on the promise, (2) it is apparent from the evidence that by September 1991 he thought that he had the best chance of getting the appointment, and (3) he was appointed to fill the position of director, and, as will be discussed, he had the authority to determine who would be hired to fill the District Council's clerical positions, and thus to deliver on his promises to her.

inform Teamsters Local 164 that the District Council would assume the contract with Bricklayers Local 14, or to inform his secretaries that they would be hired as the District Council's secretaries.

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The evidence conclusively establishes that Palazzolo acted without authority from either the District Council's Executive Committee or Management Committee when he made a telephone call, in the presence of and without objection by Hollenback, to Teamsters Local Union 164, during which he committed the District Council to honoring the successor clause in Teamsters Local Union 164's collective bargaining agreement by hiring the two secretaries of Bricklayers Local Union 14. Under these circumstances, I find that Hollenback by his knowing silence at the very least ratified Palazzolo's actions.

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While Sam Palazzolo seems to have let no opportunity slip by to lobby the Executive Committee and the Management Committee on behalf of his secretaries, there is equally clear evidence that Hollenback remained completely silent concerning his secretary, Ms. Schrader. Several members of those two bodies testified that Hollenback never brought up the name of Ursula Schrader as a candidate for a clerical job with the District Council. There is no evidence that either the Executive Committee or the Management Committee ever discussed the possibility of hiring Ms. Schrader as a secretary for the District Council.

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The Constitution of the District Council adopted on May 12, 1992, vests the authority to hire the District Council's clerical staff in the Director. It does not confer any authority to hire the clerical staff upon either the Executive Committee or the Management Committee. The intense lobbying effort by Sam Palazzolo directed to the Executive Committee and the Management Committee on behalf of his two secretaries was essentially meaningless, unless Director Hollenback, who had the actual authority to hire the clerical staff, stood by silently and abdicated his authority. The evidence in this case establishes that is exactly what Hollenback did. He had the sole authority to determine who to hire to fill the two secretarial jobs at the District Council, but chose to remain silent and not to exercise that authority.<sup>14</sup>

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I find that the evidence shows that as a result of Hollenback's deliberate inaction, Local 14's two secretaries, who were in place in the office taken over by the District Council from Local 14, became the District Council's secretaries virtually by default. Without any formal designation, simply because they were there they took over the work of the District Council as it started operation and Local 14 phased out its operations. As Palazzolo put it, he guessed it was the Director's responsibility, but they "just came with the office, that is the way it was. It just happened."

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Simply put, Daryl Hollenback found it unnecessary to do anything positive to carry through on his discriminatory threat not to hire his secretary at Local Union 31 for a clerical job at the District Council unless she terminated her membership in Teamsters Local Union 580, something which she did not do. Inaction was all that was necessary. He did not disclose to

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<sup>14</sup> I reject Hollenback's assertion that at the relevant time he was unaware that he had the sole authority to hire clerical employees for the District Council. I find it improbable in the extreme that Hollenback, who admittedly schemed for three or four years to get the job of Director of the District Council, which he viewed as a stepping stone to greater power as an employee of the International Union, would fail to ascertain what his powers as Director were, or that he would voluntarily relinquish any of his powers as Director, unless he felt that by doing so he could achieve some other goal. In this case it is obvious that Hollenback hoped that by allowing the secretaries of Local Union 14 to assume the jobs of the District Council's clerical staff virtually by default, he would be able to say exactly what he now says, he had no role in hiring the District Council's secretaries, and he did not discriminate against Ms. Schrader as Director of the District Council.

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the Executive Committee and the Management Committee that she wanted a job with the District Council as one of its secretaries,<sup>15</sup> and then stood silently by while Sam Palazzolo lobbied the Executive Committee and Management Committee on behalf of the secretaries of Local 14, and allowed Sam Palazzolo to make a commitment to Teamsters Local Union 164 that the District Council would assume Bricklayers Local Union 14's contract, a commitment which Palazzolo did not have the authority to make.<sup>16</sup> He continued to stand silently by and allowed Local 14's two secretaries to take over the work of the District Council, and eventually, to be put on the District Council's payroll.

The Act can be violated by inaction as well as action. In this case, Hollenback did not need to take any action to carry through on his unlawful threat and prevent Ms. Schrader from getting a job with the District Council. All that was required to achieve that goal was to remain silent, and by his silence, acquiesce in Palazzolo's determined efforts to get the clerical jobs at the District Council for his two former secretaries employed by Local 14. While still the business agent for Local 31, Hollenback had threatened Ms. Schrader with retaliation, in the form of not hiring her to work for the District Council, if she did not terminate her membership in Teamsters Local Union 580, which she refused to do. When he became Director of the District Council, he had the sole authority to select and hire the District Council's clerical staff, and he exercised that authority by not offering her a job at the District Council as one of its secretaries, exactly as he had told her the consequences would be if she did not accede to his demands.

The reason Ms. Schrader was not offered a secretarial job at the District Council was because District Council Director Hollenback did not offer it to her, and he did not offer it to her because of her protected union activity, a clear violation of Section 8(a)(3) and (1) of the Act. His argument that he played no role in selecting the District Council's secretaries is a transparent attempt to disguise the fact that Ms. Schrader was not offered the job because he chose not to offer it to her. The mechanism by which he denied Ms. Schrader the job at the District Council was to abdicate his hiring authority to Sam Palazzolo, his administrative assistant, knowing that given a free hand, Palazzolo would carry out his own agenda by placing Local 14's two secretaries in the two secretarial jobs at the District Council, thereby relieving Hollenback from the necessity of doing anything to achieve his goal of denying a secretarial job at the District Council to Ms. Schrader. I find that the evidence offered by the General Counsel is sufficient to prove by a preponderance of the evidence that Daryl Hollenback, as the Director of the District Council, had the sole authority under its constitution to hire its clerical staff, and in his capacity as Director of the District Council he chose to not offer a secretarial job at the District Council to Ms. Schrader because she had engaged in protected union activity. Since he was acting on behalf of the District Council in not offering her a job, and he was motivated by union animus in not making the job offer, the District Council, as his employer, is responsible for his actions and violated Section 8(a)(1) and (3) of the Act by unlawfully discriminating against Ms. Schrader because she engaged in protected union activity.

## VII

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<sup>15</sup> The District Council actually had authority to hire three secretaries, but for financial reasons at least initially did not consider hiring more than two.

<sup>16</sup> At the same time, Hollenback was able to placate Palazzolo, who had been his principal rival for the director's job. Palazzolo made it clear to everyone that he was going to fight to get District Council jobs for his two secretaries at Local 14. He candidly admitted that "it would have been over his dead body," if Hollenback had attempted to hire someone else.

5 The Complaint in this case also names the International Union of Bricklayers as a respondent. Upon consideration of all of the evidence of record, I find that the General Counsel has not proven by a preponderance of the evidence that the International Union violated the Act as alleged in the Complaint. Therefore, I will dismiss the Complaint against the International Union.

10 There is no evidence that any official of the International Union, including Thomas McClanahan, its Director of Regionalization Projects, was aware at any relevant time that Daryl Hollenback had promised Ms. Schrader a job with the District Council, or had unlawfully threatened her by telling her that she would not be hired by the District Council as a secretary unless she severed her union affiliation with Teamsters Local Union 580. I credit McClanahan's testimony that he first learned that Ms. Schrader had not been hired as a secretary by the District Council when she called him on June 4, 1992, and reported that she had been laid off by Bricklayers Local 31. There is no evidence to show that McClanahan or any other  
15 International Union official ever made a statement to Daryl Hollenback or anyone else that the International Union would not accept her involvement with Teamsters Local Union 580. There is no evidence that the International Union exercised any control over who the District Council hired as clerical employees once the District Council had been formed and a director had been appointed, or that the District Council was acting as an agent of the International Union.

20 There is no dispute that McClanahan knew in September 1991 that Ursula Schrader was involved in a National Labor Relations Board case against Bricklayers Local Union 31. I credit McClanahan's testimony that he thought the case had been settled and did not give it any further consideration.

25 McClanahan acknowledged that he knew there was a dispute between Hollenback and Ms. Schrader centered on membership in the Teamsters Union. He testified that he was surprised that clerical employees of Bricklayers local unions were represented by the Teamsters Union, and that after he learned of this, he told both Hollenback and Schrader that Schrader could join the Bricklayers Union in a support category under which she would pay the dues of an apprentice and receive fringe benefits. He said that both Hollenback and Schrader  
30 appeared interested. In the course of a telephone conversation with Ms. Schrader, she told him that she did not trust Hollenback because of a money matter dispute, and wanted a guarantee that Hollenback would not fire her. In a minor discrepancy in testimony, McClanahan said he told her he did not have the authority to make that kind of guarantee, while Ms. Schrader recalled that he said for her not to worry, she was not going to be fired. McClanahan said that he did tell her that he had no reason to believe that she would not be part of the District Council  
35 when it was formed.

40 Louis Weir, the International Union's Executive Vice-President said he recommended that the District Council be co-located in Ypsilanti, Michigan, with Bricklayers Local Union 14, and he recommended that Daryl Hollenback be appointed to be its first director. He said that he recommended the Ypsilanti location because he wanted to throw a bone to Sam Palazzolo. He said he vaguely remembered something about a dispute between Hollenback and his secretary, but he did not recall any of the details and knew nothing about the subject of the dispute. He said that the International Union plays no part in a district council's selection of its clerical employees.

45 I credit the testimony of Ursula Schrader, Thomas McClanahan, and Louis Weir. I find that there is no credible evidence that the International Union, or any of its officials, knew or should have known that Hollenback had threatened not to hire Ms. Schrader as his secretary at

the District Council, because she was engaging in protected union activity involving Teamsters Local Union 580. It is clear that McClanahan, as a representative of the International Union knew that Ms. Schrader was represented by a Teamsters local union, and he pointed out to both Schrader and Hollenback that she was eligible to join the Bricklayers Union. But, based on that alone, I find no evidence of union animus by McClanahan towards the Teamsters Union or any of its local union. It is worth noting here that Bricklayers Local Union 31 was not the only local union in Michigan whose clerical employees were represented by a Teamsters Union local. Palazzolo's own local union, Bricklayers Local 41, also had a collective bargaining agreement with a Teamsters Union local, albeit not Teamsters Local Union 580, covering its two clerical employees. It would be very inconsistent and make very little sense for the International Union on the one hand to object to the participation of Teamsters Local Union 580 in the affairs of either Bricklayers Local Union 31 or the future District Council, and on the other hand to accept without objection the involvement of Teamsters Local Union 164 at the District Council level as the collective bargaining representative of the two secretaries who were hired by the District Council.

I agree with Respondent International Union that this record shows no basis upon which the International Union can be held responsible for unfair labor practices committed by Respondent District Council, and its director, against Charging Party Ursula Schrader. I also agree with Respondent International Union that the record discloses no evidence that the District Council had either actual or apparent authority to act as the International Union's agent in hiring the District Council's secretaries, such that it might be argued that the District Council was acting as an agent of the International when it did not offer Charging Party Schrader a secretarial job at the District Council in retaliation for her protected union activities.

#### Conclusions of Law

1. By not offering Charging Party Ursula Schrader a secretarial position at Respondent District Council's office in Ypsilanti, Michigan, in or about May 1992, in retaliation for her preference for Local 580, International Brotherhood of Teamsters, AFL-CIO, rather than Local 164, International Brotherhood of Teamsters, AFL-CIO, the Central Michigan Administrative District Council of the International Union of Bricklayers and Allied Craftsmen, AFL-CIO, has engaged in unfair labor practices affecting commerce within the meaning of Section 8(a)(3) and (1) and Section 2(6) and (7) of the Act.

2. The General Counsel has not proven by a preponderance of the evidence that Respondent International Union of Bricklayers and Allied Craftsmen, AFL-CIO, engaged in unfair labor practices within the meaning of Section 8(a)(3) and (1) of the Act, as alleged in the Complaint.

#### Remedy

Having found that Respondent Central Michigan Administrative District Council, International Union of Bricklayers and Allied Craftsmen, AFL-CIO, has engaged in certain unfair labor practices, I find that it must be ordered to cease and desist and to take certain affirmative action designed to effectuate the policies of the Act.

Respondent Central Michigan Administrative District Council having discriminatorily failed to offer Charging Party Ursula Schrader a secretarial position at its office in Ypsilanti, Michigan, in or about May 1992, it must offer her a position and make her whole for any loss of earnings and other benefits, computed on a quarterly basis from the date of its failure to offer

the secretarial position to her, to the date of a proper offer of employment, less any net interim earnings, as prescribed in *F. W. Woolworth Co.*, 90 NLRB 289 (1950), plus interest as computed in *New Horizons for the Retarded*, 283 NLRB 1173 (1987).

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On these findings of fact and conclusions of law and on the entire record, I issue the following recommended<sup>17</sup>

ORDER

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The Respondent, Central Michigan Administrative District Council, Ypsilanti, Michigan, its officers, agents, successors, and assigns, shall

1. Cease and desist from

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(a) Discriminating against applicants for employment by the Central Michigan Administrative District Council because they belong to or support Teamsters Local Union 580, International Brotherhood of Teamsters, AFL-CIO, or any other union.

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(b) In any like or related manner restraining or coercing applicants for employment in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

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(a) Offer Charging Party Ursula Schrader immediate and full employment to the position in which she would have been employed but for the discrimination against her, or if that position no longer exists, to a substantially equivalent position, without prejudice to her seniority or any other rights and privileges to which she would have been entitled absent the discrimination against her, discharging, if necessary, any employees hired in her place, and make her whole for any loss of earnings and other benefits suffered as a result of the discrimination against her in the manner set forth in the remedy section of the decision.

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(b) Preserve and, on request, make available to the Board or its agents for examination and copying, all payroll records, social security payment records, timecards, personnel records and reports, and all other records necessary to analyze the amount of backpay due under the terms of this Order.

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(c) Post at its union office in Ypsilanti, Michigan, copies of the attached notice marked "Appendix."<sup>18</sup> Copies of the notice, on forms provided by the Regional Director for Region 7, after being signed by the Respondent Central Michigan Administrative District Council's authorized representative, shall be posted by the Respondent immediately upon receipt and maintained for 60 consecutive days in conspicuous places including all places where notices to employees and members are customarily posted. Reasonable steps shall be taken by the

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<sup>17</sup> If no exceptions are filed as provided by Sec. 102.46 of the Board's Rules and Regulations, the findings, conclusions, and recommended Order shall, as provided in Sec. 102.48 of the Rules, be adopted by the Board and all objections to them shall be deemed waived for all purposes.

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<sup>18</sup> If this Order is enforced by a Judgment of the United States Court of Appeals, the words in the notice reading "POSTED BY ORDER OF THE NATIONAL LABOR RELATIONS BOARD" shall read "POSTED PURSUANT TO A JUDGMENT OF THE UNITED STATES COURT OF APPEALS ENFORCING AN ORDER OF THE NATIONAL LABOR RELATIONS BOARD."

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Respondent to ensure that the notices are not altered, defaced, or covered by any other material.

5 (d) Notify the Regional Director in writing within 20 days from the date of this Order what steps the Respondent has taken to comply.

3. It is further Ordered that the Complaint against Respondent International Union of Bricklayers and Allied Craftsmen, AFL-CIO, is dismissed.

10 Dated, Washington, D.C.

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William A. Pope, II  
Administrative Law Judge

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APPENDIX

NOTICE TO EMPLOYEES AND MEMBERS

Posted by Order of the  
National Labor Relations Board  
An Agency of the United States Government

The National Labor Relations Board has found that we violated the National Labor Relations Act and has ordered us to post and abide by this notice.

WE WILL NOT refuse to hire applicants for employment by the Central Michigan Administrative District Council because they support Teamsters Local Union 580, International Brotherhood of Teamsters, AFL-CIO, or any other union.

WE WILL NOT in any like or related manner restrain or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

WE WILL offer Ursula Schrader immediate and full employment to the position in which she would have been employed but for the discrimination against her, without prejudice to her seniority or any other rights and privileges to which she would have been entitled absent the discrimination against her, discharging, if necessary any employees hired in her place, and WE WILL make her whole for any loss of earnings and other benefits suffered as a result of the discrimination against her, less any net interim earnings, plus interest.

\_\_\_\_\_  
(Labor Organization)

Dated \_\_\_\_\_ By \_\_\_\_\_  
(Representative) (Title)

This is an official notice and must not be defaced by anyone.

This notice must remain posted for 60 consecutive days from the date of posting and must not be altered, defaced, or covered with any other material. Any questions concerning this notice or compliance with its provisions may be directed to the Board's Office, 477 Michigan Avenue, Room 300, Detroit, Michigan 48226-2569, Telephone 313-226-3219.