MEMORANDUM

TO: Tony Darkangelo  
FROM: Michael McNally  
DATE: November 8, 2018  
RE: LMCI Contributions – Obligation of Contractors Upon Termination of LMCI Trust Agreement

You have asked that we provide you an opinion regarding the obligation of contractors to contribute to LMCI in the event that the LMCI Trust Agreement is terminated, and distribution of the LMCI’s assets upon termination.

Upon termination of the LMCI Trust Agreement, the obligation in collective bargaining agreements to contribute to the LMCI ceases for all hours worked following its termination.

Further, there is no obligation to allocate that contribution rate amount elsewhere. Wages and other fringe benefit fund contributions do not have to be incrementally adjusted. There is no obligation to replace the contribution to LMCI with another trust fund - no Affiliate or Contractor has any obligation to contribute to the new labor-management fund created by the IUPAT.

An effort by a district council or local union to impose such an obligation may amount to a unilateral change to the terms of the contract, in violation of the National Labor Relations Act. An Affiliate or Contractor may lawfully refuse to follow any changes purporting to require the former LMCI contribution rate be allocated in a manner that the Affiliate or Contractor has not agreed to.

While an Affiliate or Contractor may agree to discuss a modification to the collective bargaining with a district council or local union during the term of a contract, Affiliates and Contractors have an absolute right to reject, or even refuse to negotiate over, proposed contract modifications.

Following termination of the LMCI Trust Agreement, the LMCI Trustees may move to distribute the Trust’s assets. Deciding where, and in what amount(s), the assets will be disbursed is an action that must be agreed upon by a majority of the Trustees.
It is our opinion that the new labor-management fund created by the IUPAT is not a successor trust which exists for the same or similar purposes as the LMCI. FCA is not a co-sponsor of the trust, and it plainly does not exist to improve labor-management relationships in the entire finishing industry. Accordingly, it would be entirely well-reasoned and within their power for the Employer Trustees to vote against a motion to distribute LMCI’s assets to the new labor-management fund created by the IUPAT.