



April 28, 2022



Dear [REDACTED]:

This Statement of Reasons is in response to your complaint filed with the Department of Labor on August 24, 2021, alleging that violations of Title IV of the Labor-Management Reporting and Disclosure Act (LMRDA) occurred in connection with the election of officers conducted by the International Alliance of Theatrical Stage Employees, Moving Picture Technicians, Artists and Allied Crafts (International), Motion Picture Costumers, Local 705.

The Department of Labor (Department) conducted an investigation of your allegations. As a result of the investigation, the Department has concluded, with respect to the specific allegations, that there was no violation of the Act that may have affected the outcome of the election. Following is an explanation of this conclusion.

You alleged that the union notified members only nine days prior to the nominations meeting that nominations would be accepted by email. Section 401(e) of the LMRDA requires that members be given a reasonable opportunity for the nomination of candidates. 29 U.S.C. § 481(e); 29 C.F.R. §§ 452.55-59. To meet that requirement, notice of nominations must be reasonably calculated to reach all members in good standing, but need not necessarily be given at least 15 days before nominations are held. Notice of nominations is not required to be given by mail. 29 C.F.R. § 452.56(a).

The investigation found that, due to the COVID-19 pandemic, the International permitted Local 705 to hold its April 10, 2021, nominations meeting virtually over Zoom and also directed Local 705 to accept nominations by email. As a result, on April 1, 2021, Local 705 sent an "email blast" to members about the availability of nominations by email. On April 2 and 9, 2021, the local sent members The Thread, the local's e-newsletter, about such availability. These emails informed members that they had the option of submitting nominations at the April 10 nominations meeting or submitting nominations to the secretary treasurer by email no later than April 11, 2021, at 11:59 p.m. The investigation found that at the time the emails were sent to members, Local 705 had the email addresses of 2,475 of its 2,539 of its members on file. According to the

International, Local 705 officials called members for whom they had no email address on file to notify them of the availability of nominations by email.

In addition, the investigation found that, in advance of the April 10 nominations meeting, the local announced on its website, Facebook, and Instagram accounts that members could submit nominations by email to the secretary treasurer by the designated deadline. Also, during the April 10 Zoom nominations meeting, a union officer reminded members of the availability of nominations by email and displayed signs at the start and the end of the meeting explaining the process for submitting such nominations. The investigation did not find that any member did not make nominations by email because the member was not aware of this alternative process for making nominations. Further, the nominations notice that the local mailed to all members in early March 2021 and April 2021 informed members of the offices to be filled in the election, the date and time of the April 10 Zoom nominations meeting and provided instructions about how to access that meeting over Zoom. On these facts, members were given a reasonable opportunity for the nomination of candidates. The LMRDA was not violated.

Next, you alleged that Local 705 violated its constitution and bylaws by failing to publish notification about the availability of nominations by email in *The Costumer*, the local's monthly print newsletter. Section 401(e) of the LMRDA provides that an election of union officers must be conducted in accordance with the union's constitution and bylaws insofar as they are not inconsistent with the provisions of Title IV of the LMRDA. 29 U.S.C. § 481(e); 29 C.F.R. § 452.2.

Article 3, Section 1A of Local 705's constitution and bylaws states, "nominations for officers of this Local shall be held at the regular April meeting of the membership and notification of such order of business shall be published in the issue of *The Costumer* of the month previous, together with a listing of all offices to be open for nomination...." The investigation revealed that Local 705 published the nomination notice in the March 2021 edition of *The Costumer*, which it mailed to all members. As discussed above, the notice contained all relevant information, except how to nominate candidates via email. That process – for submitting email nominations by the April 11 deadline – was sent in a special email blast, posted on the local's social media accounts, published twice in *The Thread*, and announced at the April 10 nominations meeting. During the investigation, union officials stated that both *The Costumer* and *The Thread* are acceptable means of communicating with members about the nominations process. Such officials further stated that Local 705's constitution and bylaws do not expressly prohibit the local from publishing information about nominations by methods other than *The Costumer*. The union's interpretation of its governing documents is not clearly unreasonable and, therefore, will be accepted by the Department. 29 C.F.R. § 452.3. Therefore, the fact that Local 705 informed members about the availability of nominations by email twice in

The Thread, the local's weekly e-newsletter, instead of publishing that information in The Costumer, the local's monthly print newsletter, did not violate Local 705's constitution and bylaws. The LMRDA was not violated.

You also alleged that Local 705 violated its constitution and bylaws by extending the deadline for making nominations and, as a result, members were afforded the opportunity to submit nominations by email after the nominations meeting closed. Section 401(e) of the LMRDA provides that an election of union officers must be conducted in accordance with the union's constitution and bylaws. 29 U.S.C. § 481(e); 29 C.F.R. § 452.2.

The investigation found that, after the International directed Local 705 to afford members the option of submitting nominations by email, Local 705 extended the nominations period to Sunday, April 11, 2021, at 11:59 p.m., approximately 36 hours after the April 10 nominations meeting ended. You asserted that, because members were permitted to submit nominations by email after the nominations meeting closed, members were able to nominate candidates for offices that only had unopposed candidates at the close of that meeting. The investigation found, however, that members were not prevented from nominating candidates by email during the 36-hour extension of the nominations period. The investigation found that all eligible members were afforded the same opportunity to make nominations or be nominated by email after the April 10 nominations meeting closed. The investigation further found that the local did not engage in discriminatory behavior regarding nominations made by email. No candidate or faction gained a political advantage over another candidate. The LMRDA was not violated.

In addition, you alleged that write-in candidates did not submit the required documentation to the election committee by the April 13, 2021, deadline for establishing candidate eligibility. Section 401(e) of the LMRDA provides that every member in good standing is eligible to be a candidate and to hold office (subject to section 504 and to reasonable qualifications uniformly imposed). 29 U.S.C. § 481(e).

Article 3, Section 2 of Local 705's constitution and bylaws provides that a person who has been a member in continuous good standing for not less than two (2) years and has worked in the industry within the local's jurisdiction for at least one hundred and twenty days in the thirty-six months prior to such nomination is eligible for nomination to elective office. The investigation found that all candidates elected to and holding offices covered under the LMRDA, including write-in candidates, had satisfied the two-year continuous good standing requirement for candidates. *See* 29 U.S.C. § 402(n) (defining "officer"); 29 C.F.R. §§ 452.16-21 (discussing offices covered by LMRDA). The Department reviewed copies of the pay stubs or other work-related records for such candidates to confirm that they also had met the 120-day working at the calling

requirement for the 36 months prior to nominations. This review found that these candidates had met that requirement, had submitted their pay stubs and eligibility records to the union by the April 13 deadline for such submission and, therefore, were eligible to serve in and hold office. This review further found that four write-in candidates were elected to office. However, two of these candidates were disqualified for failing to submit their eligibility records to the union. In addition, one other write-in candidate was elected to the Live TV executive board but was disqualified from that office because the candidate no longer worked in that trade. The LMRDA was not violated.

You further alleged that Local 705's constitution and bylaws require that the election committee contain five members but it had only three members, that the union's governing documents required the election committee to be formed after the nominations meeting but it was formed before that meeting, and that this committee was not properly staffed to review candidate eligibility records. You further alleged that the results of that review were not published in *The Costumer*. Section 401(e) of the LMRDA provides that an election of union officers must be conducted in accordance with the union's constitution and bylaws. 29 U.S.C. § 481(e).

The investigation found that, consistent with Local 705's constitution and bylaws, the local used a pre-election committee to create the election rules, properly appointed a five-member election committee at the nominations meeting, and that this committee reviewed the candidate eligibility records to determine those candidates who were eligible to run for and hold office. The investigation also found that the election committee did not publish the results of this review in *The Costumer* but Local 705's constitution and bylaws do not require any such publication. However, the May 2021 edition of *The Costumer* contained a list of all candidates who had been determined by the election committee to be eligible to run for and hold office based on the results of its review of the candidates' pay stubs and other eligibility records for the relevant period. The LMRDA was not violated.

For the reasons set forth above, the Department has concluded that there was no violation of the LMRDA that may have affected the outcome of the election and I have closed the file regarding this matter.

Sincerely,

A large black rectangular redaction box covering the signature area.

Tracy L. Shanker
Chief, Division of Enforcement

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