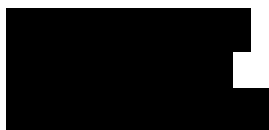


U.S. Department of Labor

Office of Labor-Management Standards
Division of Enforcement
Washington, DC 20210
(202) 693-0143 Fax: (202) 693-1343



March 25, 2020



Dear [REDACTED]

This Statement of Reasons is in response to your complaint received by the Department of Labor (Department) on October 17, 2019, alleging that violations of Title IV of the Labor-Management Reporting and Disclosure Act (LMRDA) occurred in connection with the August 23, 2019 election of officers conducted by the New England Local (local), Screen Actors Guild-American Federation of Television and Radio Artists (SAG-AFTRA or National).

The Department conducted an investigation of your allegations. As a result of the investigation, the Department concluded that there were no violations that may have affected the outcome of the election.

You alleged the opposing slate violated the National Constitution by displaying on its campaign website members of its slate and local/national staff wearing t-shirts with the union's logo, without the requisite disclaimer, thereby giving the impression of endorsement by SAG-AFTRA National. Section 401(g) prohibits unions from using union funds to promote the candidacy of any person. 29 U.S.C. § 481(g). Union funds are broadly defined and may include the union logo. See 29 C.F.R. § 452.76. The union has a similar prohibition in Article IV of the National Constitution. Specifically, Article IV, section A(1)(d) prohibits the use of the union's logo in a manner which would reasonably be construed as an endorsement by the union, or use of the union's logo or name of any slate member. Article III (B)(3), the disclaimer provision, provides in relevant part: "With respect to U.S. Postal Service candidate mailing requests, SAG-AFTRA will arrange for the production of mailing labels All campaign material must include the return address of the mail house and must not indicate or suggest in any manner that the material is an official communication from SAG-AFTRA. All literature must include the following disclaimer: 'Not paid for with SAG-AFTRA funds.'"

There were two slates in the election at issue: the New England First slate, which you headed as a candidate for president; and the Union Strong New England slate

(opposing slate). Although you did not win the election for president, you won for the offices of local executive board (actor/performer) and delegate.

The Department's investigation disclosed that the Union Strong New England slate's campaign website showed a photograph of local members as well as local and national staff members; the photograph was taken after the conclusion of a successful contract negotiation. Many of the members in the photo were wearing t-shirts bearing the union logo, which was barely discernible in the photos.

The Department's investigation disclosed that [REDACTED], who ran as an independent candidate for Executive Board but served as campaign manager for the Union Strong New England slate, posted this particular photo and other photos on that slate's campaign website. He had taken the photo in question with his personal cell phone camera while attending the union event which was accessible to all members. On this campaign website, he also posted photos he had copied from some Union Strong New England slate members' personal Facebook pages. Given that the union logo on the t-shirts was displayed on a webpage that was clearly the opposing slate's campaign site, the display of the union logo in the context described above cannot reasonably be construed as a union endorsement. No union resources were expended in the posting of these photographs. There was no violation.

With respect to your assertion that the opposing slate violated the National Constitution when it failed to insert a disclaimer on its campaign website, no such disclaimer was required in the instant case. Article III, (b)(3) requires a disclaimer in reference to mailed campaign material, as indicated in the first sentence "[w]ith respect to U.S. Postal Service candidate mailing requests . . ." The National interprets this provision to mean that a disclaimer was not required for postings on campaign websites. The National's interpretation of its constitution is not clearly unreasonable and is therefore accepted by the Department. 29 C.F.R. §452.3. There was no violation.

You alleged that [REDACTED], president and owner of CP Casting, promoted and endorsed the candidacy of [REDACTED], candidate for local executive board, in a posting on the local's unofficial Facebook page. Specifically, you alleged that [REDACTED] posted comments that favored [REDACTED]' candidacy on the unofficial union website. Section 401(g) prohibits employers from contributing any funds or resources that promote the candidacy of any person in an election covered by the LMRDA. 29 U.S.C. § 481(g).

The investigation disclosed that [REDACTED] posted four comments on the Unofficial SAG-AFTRA Boston Member Forum (forum). In one post dated July 31, 2019, [REDACTED] uploaded a video of the SAG-AFTRA National President who was running for re-election. Mootos was a candidate in the National election as well as the local election, running as executive board member in both elections. [REDACTED] commented "[REDACTED] Casting Director Boston for over 25 years. If you don't think [REDACTED]

knows what's best for local actors, I give up." The other three posts were undated and did not constitute electioneering or anything that could be construed as an employer's promotion of a candidate for union office. One post merely contained a question mark; a second stated: [REDACTED] you should absolutely run on mushroom/pineapple pizza platform. I'm all in."; and a third post consisted of a meme of a person screaming with no text.

Further, it is unclear that [REDACTED] is an employer under the LMRDA. However, even assuming without conceding that [REDACTED] is an employer, his July 2019 comment was responding to a posting regarding the National's election, not the local's election at issue here. Finally, the online forum is not a union-sponsored or employer-sponsored website. A former member created the website for local members in 2008 with the intent that it serve as a forum for members to meet one another and exchange information about acting opportunities. Based on these investigative findings, there was no violation.

For the reasons set forth above, the Department has concluded that no violation of the LMRDA occurred, and I have closed the file in this matter.

Sincerely,

[REDACTED]

Brian A. Pifer
Chief, Division of Enforcement

cc: Andrea Lyman, President
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