



March 9, 2020

[REDACTED]

Dear [REDACTED]:

This Statement of Reasons is in response to the complaint you filed with the Department of Labor on November 7, 2019, alleging that violations of Title IV of the Labor-Management Reporting and Disclosure Act (LMRDA) occurred in connection with the election of union officers conducted by SAG-AFTRA New York Local on August 28, 2019.

The 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.

You alleged that the union inappropriately used union resources in support of a candidate because, on June 18, 2019, the local union sent an email to the New York Local SAG-AFTRA membership that included a gold-highlighted photo of the incumbent local president, [REDACTED], with the statement “a message from New York Local President [REDACTED].” Section 401(g) of the LMRDA provides that no labor organization may use its funds “to promote the candidacy of any person in an election.” 29 U.S.C. § 481(g). The Department’s investigation determined that the June 18, 2019 email did not promote the candidacy of any person for election. The email communication was for purposes of conducting union business; notably, with the goal of mobilizing members to contact their state legislators about a bill that would affect members’ rights.

The email provided contact information for legislators and a script for members to use to voice their support for the proposed legislation. There was no mention of the upcoming officer election in the email, nor did it advocate for any candidate. Reasonably, the timing of the email corresponded with the June 30, 2019 deadline for the legislation to be considered and passed. Moreover, the Department’s investigation found that SAG-AFTRA had engaged in a national redesign for email messages so that, as of early 2019, messages from local presidents would include a photo with the name and title of the president using a background of SAG-AFTRA’s colors (gold, black, and white). Since the beginning of 2019, prior to the nominations and elections period, [REDACTED] photo and title were used on emails to membership for conducting union business. There was no evidence that the implementation was in any way related to the nomination or election period or the endorsement of any candidate.

You also alleged another violation of section 401(g) when the local union and incumbent local president held a meeting at the local's office with a group of background actor members on June 26, 2019. You alleged that the incumbent president, [REDACTED], received an unfair advantage when her name and title were displayed on a power point slide at the start of the meeting. As stated above, Section 401(g) bars the use of union resources in the promotion of any candidate running for election to a union office. The Department's investigation found no violation.

Specifically, the investigation found that this particular meeting was called in response to background actor members' concerns and was focused only on those issues. At no time during the meeting was the election mentioned, nor were any candidates endorsed or criticized. Section 3.04 of the New York Local SAG-AFTRA Constitution lists as one of the president's duties to "preside at all membership, Local Board and Executive Committee meetings." [REDACTED]. [REDACTED] attested to chairing around 50 member meetings per year as part of her duties as local president. [REDACTED] name and title appeared on the screens for only a few minutes at the start of the meeting. After she opened the meeting, SAG-AFTRA staff gave a presentation regarding members' rights while working during filming. The presentation was followed by a question and answer session in which [REDACTED] participated.

Acknowledgement of [REDACTED] position and her participation in meetings with members as local president is not a use of union resources to endorse her in her capacity as a candidate nor does it constitute campaigning on her part. There is no violation.

You alleged that candidate [REDACTED] inclusion of a completed copy of her ballot in her campaign literature violated section 401(g) and SAG-AFTRA's election rules because the ballot had a SAG-AFTRA logo on it. You allege that the inclusion of the logo on the ballot suggested SAG-AFTRA's endorsement of the candidates [REDACTED] campaigned for. The investigation found no violation. As stated previously, Section 401(g) prohibits the use of union resources to promote any candidate. Article IV (A)(1)(d) of the SAG-AFTRA Elections and Nominations Policy prohibits the use of the union's logo in such a way that it "would reasonably be construed as endorsement by the Union." The fact that SAG-AFTRA's name and logo appears at the top of a ballot titled "2019 National Officers Election," which then includes the names of all national officer nominees, would not reasonably lead to the assumption that the union is endorsing any one candidate. Rather, it is clearly a picture of the impartial ballot with the logo, which was then filled out by the candidate herself. Additionally, [REDACTED] campaign literature included the phrase "Not paid for with SAG-AFTRA funds" at the top of each page above the picture. This further reduces the reasonableness of construing the logo that appears on the picture of the ballot as a union endorsement. There was no violation.

Similarly, you alleged another violation of the use of the union's name and therefore union resources by the inadvertent inclusion of a local union staff member on an email chain dated August 2-3, 2019 discussing a campaign message from [REDACTED], a candidate for local president. Again this is an alleged violation of Section 401(g) of the LMRDA. The investigation found no violation. First, the staff member whose email address was included in the email exchange is not a member of SAG-AFTRA and could not vote in the election. Additionally, the

staff member did not participate in the email discussion in any way and was quickly removed from the email chain by one of the 14 members who were included in the email once the members realized she had been included. The investigation did not find any evidence of union resources being used or any implication of endorsement or promotion by the staff member based on the inadvertent inclusion of this person with a @SAGAFTRA email address in an email chain between several members.

You alleged that you did not receive a receipt or notification from the union's vendor for candidates' email communications with the membership, iContact. Because you did not receive a report from iContact, you allege possible misconduct regarding the distribution of your campaign literature. Section 401(c) of the LMRDA requires local unions to comply with all reasonable requests by candidates to distribute campaign literature. 29 U.S.C. § 481(c). The Department's regulations recommend that "in order to avoid charges of disparity of treatment among candidates, it is advised that a union inform all candidates in advance of the conditions under which distribution will be made." 29 C.F.R. § 452.67 Moreover, the regulations state that a labor organization must honor a candidate's request to distribute literature to only a portion of the full membership list, so long as such distribution is practicable. 29 C.F.R. § 452.68. The Department's investigation found no violation of the LMRDA.


Here the local union complied with both the mandatory provisions of the LMRDA and the Department's regulations. SAG-AFTRA contracted with iContact to provide all candidates with the option to email their campaign literature upon request and at the candidate's expense. Candidates had access to the SAG-AFTRA Nominations and Elections Policy which informed them of the conditions for the distribution of campaign literature in advance. Specifically, Article III(B)(8) of the SAG-AFTRA Nominations and Elections Policy states that "[u]pon request by the candidate, the vendor will provide him or her with a report on the total number of mail and/or e-mails sent and the total number of undeliverable pieces of mail and/or emails." On August 9, 2019 you requested that iContact send an email on your behalf to only those local members who were between the ages of 21 and 50. After receiving your approval of the test email, iContact sent your campaign email to the targeted group of local members between the ages of 21 and 50, a total of 13,222 members. iContact verified that, of those 13,222 emails, seventy-seven were undeliverable. iContact was not obligated to attempt to resend emails returned as undeliverable for any candidate. iContact properly complied with its obligations to reasonably distribute campaign literature on a candidate's behalf, at the candidate's expense. Candidates were responsible for requesting a report of the distribution and you did not request such a distribution report. There was no violation of the LMRDA.

You originally alleged malicious tampering with your campaign website, however, after receiving more information you informed the Department that you did not wish to further pursue this allegation. As such, the allegation was not investigated.

You also raised other allegations that, even if true, would not constitute violations of Title IV of the LMRDA. As such, these allegations that fall outside the scope of the LMRDA were not investigated by the Department.

For the reasons set forth above, the Department of Labor concludes that there was no violation of the LMRDA with respect to the specific allegations. Accordingly, I have closed the file on this matter.

Sincerely,



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Chief, Division of Enforcement

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