



April 19, 2012

Dear [REDACTED]

This Statement of Reasons is in response to your complaint received by the Department of Labor on December 15, 2011, alleging that violations of Title IV of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA) occurred in connection with the election of officers of the Screen Actors Guild (SAG) and its Hollywood Division (HWD), conducted on September 22, 2011.

The Department of Labor 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 that the SAG violated section 3.E.2 of its Election Guidelines and Campaigning Policies (Election Guide) when the International President praised Ned Vaughn, 1<sup>st</sup> Vice President, and the Unity For Strength slate at a membership meeting held on July 17, 2011. Section 3.E.2 of the Election Guide provides, in relevant part, that candidates may not speak at a membership meeting in furtherance of their candidacy. Section 401(g) of the LMRDA prohibits the use of union monies, including the use of a union's facilities and resources, to promote any candidate.

At the time of the July 17, 2011 meeting, SAG members faced the question of whether to merge with the American Federation of Television and Radio Artists (AFTRA). The merger initiative was led by the International President Ken Howard and 1<sup>st</sup> Vice President Ned Vaughn. Some incumbent officers, a group including [REDACTED] and [REDACTED] used the name, Unity For Strength, to identify their slate. During the 3.5-hour meeting, various topics were presented: the history of SAG, the biography of one of its former presidents and the presentation of an award in that former president's honor; a speech by the reward recipient; an in memoriam segment honoring the memory of each recently deceased actor; various actors who spoke about their profession, to name but a few of the topics presented. At some point in the middle of these presentations, the International President spoke for six minutes. Pertinent to your allegation,

International President Howard stated the following when acknowledging the individuals who were on the podium:

One of the things I've learned so much from [REDACTED] who was the creator of Unity For Strength, and I don't want to embarrass you, but he is a brilliant strategist in terms of the big goal, in terms of overview, long view where we were just a couple of years ago and how we would possibly succeed and also [REDACTED], our National Executive Director, also is the same kind of thinker who has a real fire in his belly who is there to fight for us but also understands how to approach this battle. I have learned from them and I tried as best I can to maintain the same kind of appearance of reason and calm.

Courts have consistently held that the tone, content and timing of an oral or written statement determines whether the statement is in fact campaign material that falls within the section 401(g) prohibition. The overall timing, tone and content must be evaluated to determine whether the material effectively supports or attacks a candidate in the election.

Here, the speech was made two months before the September 22, 2011 election, so was within the election period. The timing of the speech would not remove it from consideration as prohibited campaigning. Whether the content of the speech promoted candidates and places it within the category of prohibited campaigning is not as clear. A candidate was mentioned and "Unity For Strength" was mentioned as well. However, the speech was not about the election or about the Unity For Strength slate of candidates. It was directed toward the merger issue. While Howard mentioned that the Unity For Strength slate had been created by [REDACTED] Howard did not support or promote the Unity for Strength slate in the speech.

The reference to [REDACTED] as a strategist coupled with praise for [REDACTED] who was not a candidate, but was involved in the merger issue, supports the conclusion that Howard praised [REDACTED] for his role as a leader of the merger issue, not as a candidate for office. In any event, the tone of the speech was not promotional of any individual's candidacy. The President did not engage in electioneering. The President never made reference to the September 22 election nor did he reference the candidacy of [REDACTED] or any other candidate, including himself. The President's speech in tone and in content was not campaigning and did not violate section 401(g) of the LMRDA. Nor did the speech violate the Election Guideline, as it did not further anyone's candidacy. There was no violation.

You also alleged that a losing candidate for the opposition slate, Membership First, mentioned the name of a union member in his campaign statement, in violation of the Election Guide. Section 401(e) of the LMRDA, provides in relevant part that elections

must be conducted in accordance with the constitution and bylaws of the union in so far as they are not inconsistent with the provisions of Title IV. Section 2.C.6 of the Election Guidelines provides, in relevant part, that no reference direct or indirect shall be made in a candidate statement to any other candidate or Guild member or Guild staff.

SAG permitted all candidates to submit a candidate statement. All candidate statements were included in ballot packages mailed to all Hollywood Division members on August 23, 2011. Candidate [REDACTED] affiliated with Membership First, a slate in opposition to the merger of SAG and AFTRA, wrote the following in his candidate statement:

Member, of SAG, 1985. Member of the Actors Studio. I've been on the picket lines with [REDACTED] and others from Membership First. About Me: I will never sell you out.

Clearly, Solari mentioned the name of Wilson, in violation of section 2.C.6 of the Election Guide. However, it cannot be said that this violation may have affected the outcome of the election because [REDACTED] lost the election, indicating that the use of [REDACTED] name did not enhance [REDACTED] candidacy. There was no violation that may have affected the outcome of the election.

For the reasons set forth above, your complaint to the Department is dismissed, and I have closed the file in this matter.

Sincerely,

Patricia Fox  
Chief, Division of Enforcement

cc: Mr. Ken Howard, President  
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