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7 Vaughn, Mike Hodge and David Hartley-Margolin

8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

10
11 MARTIN SHEEN, et al.,
12 Plaintiffs,
13 vs.
14 SCREEN ACTORS GUILD, et al.,
15 Defendants.

CASE NO. CV 12-1468 SJO
INDIVIDUAL DEFENDANTS’
ANSWER TO FIRST AMENDED
COMPLAINT

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17 Pursuant to Rule 8(b) of the Federal Rules of Civil Procedure, Individual
18 Defendants David White, Ken Howard, Amy Aquino, Ned Vaughn, Mike Hodge
19 and David Hartley-Margolin (“Individual Defendants”) answer Plaintiffs’ First
20 Amended Complaint (“Complaint”). If an allegation is not specifically admitted, it
21 is hereby denied.

22 **ANSWER TO COMPLAINT**

- 23 1. Answering Paragraph 1, Individual Defendants deny each and every
24 allegation contained therein.
25 2. Answering Paragraph 2, Individual Defendants admit that prior to
26 March 30, 2012, SAG was a labor organization within the meaning of 29 U.S.C. §
27 402 with its principal office in Los Angeles, California. They allege that Individual
28 Defendants, except David White, were members of the SAG National Board; that

1 White was the National Executive Director; and that there were approximately
2 120,000 members of SAG. Except as expressly admitted herein, Individual
3 Defendants deny each and every allegation contained therein.

4 3. Answering Paragraph 3, Individual Defendants deny each and every
5 allegation contained therein.

6 4. Answering Paragraph 4, Individual Defendants admit that prior to
7 March 30, 2012, the American Federation of Television and Radio Artists
8 (“AFTRA”) was an entirely separate union from SAG and was comprised of
9 approximately 70,000 performers and broadcasters, and that AFTRA members
10 included broadcasters and journalists. Individual Defendants further allege that as
11 of March 30, 2012, when the membership of both SAG and AFTRA
12 overwhelmingly voted in favor of a merger of the two unions, SAG and AFTRA
13 ceased to exist, and a new union, SAG-AFTRA, was formed. Except as expressly
14 admitted herein, Individual Defendants deny each and every allegation contained
15 therein.

16 5. Answering Paragraph 5, Individual Defendants deny each and every
17 allegation contained therein.

18 6. Answering Paragraph 6, Individual Defendants lack sufficient
19 knowledge or information to form a belief concerning the truth of the factual
20 allegations contained therein and on that basis deny such allegations.

21 7. Answering Paragraph 7, Individual Defendants admit that prior to
22 March 30, 2012, Defendant KEN HOWARD was the president of SAG, and that he
23 is a resident of the County of Los Angeles, State of California. Except as expressly
24 admitted herein, Individual Defendants deny each and every allegation contained
25 therein.

26 8. Answering Paragraph 8, Individual Defendants admit that prior to
27 March 30, 2012, Defendant AMY AQUINO was the secretary-treasurer of SAG,
28 and that she is a resident of the County of Los Angeles, State of California. Except

1 as expressly admitted herein, Individual Defendants deny each and every allegation
2 contained therein.

3 9. Answering Paragraph 9, Individual Defendants admit that prior to
4 March 30, 2012, Defendant NED VAUGHN was the 1st vice president of SAG, and
5 that he is a resident of the County of Los Angeles, State of California. Except as
6 expressly admitted herein, Individual Defendants deny each and every allegation
7 contained therein.

8 10. Answering Paragraph 10, Individual Defendants admit that prior to
9 March 30, 2012, Defendant MIKE HODGE was the 2nd vice president of SAG, and
10 that he is a resident of the State of New York. Except as expressly admitted herein,
11 Individual Defendants deny each and every allegation contained therein.

12 11. Answering Paragraph 11, Individual Defendants admit that prior to
13 March 30, 2012, Defendant DAVID HARTLEY-MARGOLIN was the 3rd vice
14 president of SAG, and that he is a resident of the State of Colorado. Except as
15 expressly admitted herein, Individual Defendants deny each and every allegation
16 contained therein.

17 12. Answering Paragraph 12, Individual Defendants admit that prior to
18 March 30, 2012, Defendant SAG was a labor organization within the meaning of 29
19 U.S.C. § 402 with its principal office in Los Angeles, California. Except as
20 expressly admitted herein, Individual Defendants deny each and every allegation
21 contained therein.

22 13. Answering Paragraph 13, Individual Defendants lack sufficient
23 knowledge or information to form a belief concerning the truth of the factual
24 allegations contained therein and on that basis deny such allegations.

25 14. Answering Paragraph 14, Individual Defendants deny each and every
26 allegation contained therein.

27 15. Answering Paragraph 15, Individual Defendants admit that this Court
28 has subject matter jurisdiction over the 29 U.S.C. §501 claim. Except as expressly

1 admitted herein, Individual Defendants deny each and every allegation contained
2 therein.

3 16. Answering Paragraph 16, Individual Defendants admit that venue is
4 proper in this Court. Paragraph 16 further contains legal conclusions and argument
5 as to which no response is required.

6 17. Answering Paragraph 17, Individual Defendants admit that SAG has
7 represented its members since 1933. Except as expressly admitted herein,
8 Individual Defendants deny each and every allegation contained therein.

9 18. Answering Paragraph 18, Individual Defendants deny each and every
10 allegation contained therein.

11 19. Answering Paragraph 19, Individual Defendants deny each and every
12 allegation contained therein.

13 20. Answering Paragraph 20, Individual Defendants deny each and every
14 allegation contained therein.

15 21. Answering Paragraph 21, Individual Defendants deny each and every
16 allegation contained therein.

17 22. Answering Paragraph 22, Individual Defendants deny each and every
18 allegation contained therein.

19 23. Answering Paragraph 23, Individual Defendants allege that a merger
20 with AFTRA was voted on by the members of SAG in 1998 and 2003 and rejected.
21 Except as expressly admitted herein, Individual Defendants deny each and every
22 allegation contained therein.

23 24. Answering Paragraph 24, Individual Defendants deny each and every
24 allegation contained therein.

25 25. Answering Paragraph 25, Individual Defendants deny each and every
26 allegation contained therein.

27 26. Answering Paragraph 26, Individual Defendants deny each and every
28 allegation contained therein.

1 27. Answering Paragraph 27, Individual Defendants deny each and every
2 allegation contained therein.

3 28. Answering Paragraph 28, Individual Defendants deny each and every
4 allegation contained therein.

5 29. Answering Paragraph 29, Individual Defendants deny each and every
6 allegation contained therein.

7 30. Answering Paragraph 30, Individual Defendants admit that a letter was
8 written by David Casselman to SAG dated January 4, 2012 and that the letter speaks
9 for itself. Except as expressly admitted herein, Individual Defendants deny each and
10 every allegation contained therein.

11 31. Answering Paragraph 31, Individual Defendants deny each and every
12 allegation contained therein.

13 32. Answering Paragraph 32, Individual Defendants deny each and every
14 allegation contained therein.

15 33. Answering Paragraph 33, Individual Defendants deny each and every
16 allegation contained therein.

17 34. Answering Paragraph 34, Individual Defendants deny each and every
18 allegation contained therein.

19 35. Answering Paragraph 35, Individual Defendants deny each and every
20 allegation contained therein.

21 36. Answering Paragraph 36, Answering Paragraph 6, Individual
22 Defendants lack sufficient knowledge or information to form a belief concerning the
23 truth of the factual allegations contained therein and on that basis deny such
24 allegations.

25 37. Answering Paragraph 37, Individual Defendants deny each and every
26 allegation contained therein.

27 38. Answering Paragraph 38, Individual Defendants deny each and every
28 allegation contained therein.

1 39. Answering Paragraph 39, Individual Defendants deny each and every
2 allegation contained therein.

3 40. Answering Paragraph 40, Individual Defendants admit that actors and
4 others who were members of SAG or of AFTRA, or are members of SAG-AFTRA,
5 may be put in a difficult position regarding the existing multiemployer pension and
6 health plans since their earnings are often split between the two plans and it may
7 therefore be more difficult for them to qualify for benefits. Except as expressly
8 admitted herein, Individual Defendants deny each and every allegation contained
9 therein.

10 41. Answering Paragraph 41, Individual Defendants deny each and every
11 allegation contained therein.

12 42. Answering Paragraph 42, Individual Defendants deny each and every
13 allegation contained therein.

14 43. Answering Paragraph 43, Individual Defendants admit that on January
15 27, 2012, SAG's Board voted to approve the merger plan and submit it for a
16 membership vote. Except as expressly admitted herein, Individual Defendants deny
17 each and every allegation contained therein.

18 44. Answering Paragraph 44, Individual Defendants deny each and every
19 allegation contained therein.

20 45. Answering Paragraph 45, Individual Defendants admit that the SAG
21 Board voted to approve ballots to be mailed on or about February 27, 2012 and to be
22 counted on March 30, 2012. Except as expressly admitted herein, Individual
23 Defendants deny each and every allegation contained therein.

24 46. Answering Paragraph 46, Individual Defendants deny each and every
25 allegation contained therein.

26 47. Answering Paragraph 47, Individual Defendants admit the Merger has
27 caused SAG to immediately and irrevocably cease to exist. Except as expressly
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1 admitted herein, Individual Defendants deny each and every allegation contained
2 therein.

3 48. Answering Paragraph 48, this Paragraph contains legal conclusions and
4 argument as to which no response is required. Individual Defendants allege that on
5 March 28, 2012, this Court refused to block the merger vote, and that 82% of the
6 SAG members who cast ballots voted in favor of the merger.

7 49. Answering Paragraph 49, Individual Defendants deny each and every
8 allegation contained therein.

9 50. Answering Paragraph 50, this Paragraph contains legal conclusions and
10 argument as to which no response is required.

11 51. No response is required to allegations contained in paragraphs 51-56 of
12 the Complaint because this Court has dismissed the First Cause of Action pleaded
13 therein.

14 57. Answering Paragraph 57, Individual Defendants incorporate by
15 reference their answers set forth above.

16 58. Answering Paragraph 58, Individual Defendants admit that prior to
17 March 30, 2012, they “occup[ied] positions of trust in relation to” SAG and its
18 members. Except as expressly admitted herein, Individual Defendants deny each
19 and every allegation contained therein.

20 59. Answering Paragraph 59, Individual Defendants admit only that their
21 fiduciary duty to SAG and its members is governed by 29 U.S.C. § 501(a).

22 60. Answering Paragraph 60, this Paragraph states legal conclusions and
23 argument to which no response is required.

24 61. Answering Paragraph 61, Individual Defendants deny each and every
25 allegation contained therein.

26 62. Answering Paragraph 62, Individual Defendants admit that a letter was
27 written by David Casselman to SAG dated January 4, 2012 and that the letter speaks
28

1 for itself. Except as expressly admitted herein, Individual Defendants deny each and
2 every allegation contained therein.

3 63. Answering Paragraph 63, Individual Defendants deny each and every
4 allegation contained therein.

5 64. Answering Paragraph 64, Individual Defendants deny each and every
6 allegation contained therein.

7 65. Answering Paragraph 65, Individual Defendants deny each and every
8 allegation contained therein.

9 66. No response of these answering Defendants is required to paragraphs
10 66-71 of the Complaint because the Third Cause of Action pleaded in those
11 paragraphs is not directed at Individual Defendants.

12 72. Answering Paragraph 72, Individual Defendants incorporate by
13 reference their answers set forth above.

14 73. Answering Paragraph 73, this Paragraph states legal conclusions and
15 argument to which no response is required.

16 74. Answering Paragraph 74, Individual Defendants deny each and every
17 allegation contained therein.

18 75. Answering Paragraph 75, Individual Defendants deny each and every
19 allegation contained therein.

20 76. Individual Defendants deny that Plaintiffs are entitled to any of the
21 relief sought in their Prayer for Relief.

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AFFIRMATIVE DEFENSES

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Individual Defendants plead the following separate affirmative defenses.

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Individual Defendants reserve the right to assert additional affirmative defenses that
26 discovery indicates are proper.

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FIRST AFFIRMATIVE DEFENSE

(Failure to State a Claim)

1. The First Amended Complaint fails to state facts sufficient to constitute any claim for relief against Individual Defendants.

SECOND AFFIRMATIVE DEFENSE

(Lack of Causation)

2. The First Amended Complaint, and each purported claim for relief against Individual Defendants, allege acts by Individual Defendants that, even if true, did not cause the injuries alleged.

THIRD AFFIRMATIVE DEFENSE

(Authorization/Ratification)

3. The First Amended Complaint, and each purported claim for relief against Individual Defendants, allege acts by Individual Defendants that, even if true, were authorized and/or ratified by SAG.

FOURTH AFFIRMATIVE DEFENSE

(Laches)

4. The First Amended Complaint, and each purported claim for relief against Individual Defendants, are barred by reason of the Plaintiffs' laches in pursuing them.

FIFTH AFFIRMATIVE DEFENSE

(Unclean Hands)

5. The equitable relief sought by Plaintiffs should be denied because they are guilty of unclean hands with regard to the First Amended Complaint and each purported claim for relief against Individual Defendants.

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SIXTH AFFIRMATIVE DEFENSE

(No Injury)

6. Plaintiffs are not entitled to relief against Individual Defendants because even if they somehow violated their fiduciary duty, Plaintiffs and the other members of SAG suffered no injury.

SEVENTH AFFIRMATIVE DEFENSE

(Ripeness)

7. Plaintiffs are not entitled to relief because their claims about alleged possible future harm or liability are entirely speculative, unrealized, not imminent, not proximately caused by any of the violations alleged in the First Amended Complaint, and/or not within the control of Individual Defendants.

EIGHTH AFFIRMATIVE DEFENSE

(Deference to Union Internal Governance)

8. Plaintiffs are not entitled to relief because this Court should defer to the reasonable interpretations by Individual Defendants of SAG’s governing documents and should not unreasonably intrude into SAG’s internal affairs.

NINTH AFFIRMATIVE DEFENSE

(Disproportionate Balance of Harms)

9. Plaintiffs are not entitled to the relief of an unraveling the merger that became effective March 30, 2012 because to do so would inflict more harm on SAG and its members than would be warranted or justified by any alleged breaches by Individual Defendants of their fiduciary duties.

TENTH AFFIRMATIVE DEFENSE

(Anti-SLAPP)

10. The Fourth Claim for Relief of the First Amended Complaint is barred by reason of California’s anti-SLAPP statute, C.C.P. §§425.16 *et seq.*

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ELEVENTH AFFIRMATIVE DEFENSE

(Mootness)

11. The First Amended Complaint, and each purported claim for relief against Individual Defendants, are moot.

WHEREFORE, Individual Defendants pray for relief as follows:

- 1. That the First Amended Complaint be dismissed, with prejudice and in its entirety;
- 2. That Plaintiffs take nothing by reason of the First Amended Complaint and that judgment be entered against Plaintiffs and in favor of Individual Defendants;
- 3. That Individual Defendants be awarded their attorneys' fees and costs incurred in defending this action;
- 4. That Individual Defendants be granted such other and further relief as the Court may deem just and proper.

DATED: April 25, 2012

Respectfully submitted,

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By: /s/ Peter D. Nussbaum
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