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October 1, 2009

Electronically Filed

Lester A. Heltzer, Executive Secretary

Office of the Executive Secretary

National Labor Relations Board

1099 14th Street, N.W.

Washington, D.C. 20570-0001

Re: DLC Corp. d/b/a Live Nation New England and  
International Alliance of Theatrical Stage Employees, Local 11  
Case No. 1-RC-22162

Dear Mr. Heltzer:

Pursuant to the National Labor Relations Board procedures for electronic filing, Petitioner International Alliance of Theatrical Stage Employees, Local 11 through its undersigned counsel, hereby files Petitioner's Supplemental Opposition to the Employer's Request for Review of the Regional Director's Orders.

Thank you.

Very truly yours,

/s/Gabriel O. Dumont, Jr./

CC: Rosemary Pye, Regional Director, Region One

(Via email)

Elizabeth Cyr, Esq.

(Via email)

Lawrence D. Levien, Esq.

(Via email)

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

**DLC CORP. d/b/a  
LIVE NATION NEW ENGLAND**

Employer

And

**CASE NO.  
1-RC-22162**

**INTERNATIONAL ALLIANCE OF  
THEATRICAL STATE EMPLOYEES,  
LOCAL 11,**

Petitioner

**PETITIONER'S SUPPLEMENTAL OPPOSITION TO EMPLOYER'S  
REQUEST FOR REVIEW OF THE REGIONAL DIRECTOR'S ORDERS**

Petitioner, International Alliance of Theatrical Stage Employees, Local 11 ("Local 11" or "Union"), submits the following Supplemental Opposition to the Request for Review submitted by the Employer, DLC Corp. d/b/a Live Nation New England ("DLC"), to place before the Board information that was not available at the time Local 11 submitted its Opposition to Employer's Request for Review of the Regional Director's Orders, to withdraw its opposition to the use of the August 17, 2009 Excelsior List and to propose how the Challenged Ballots be handled in this matter.

The work calls for September 11 and 12, 2009, were among the two or three largest of the Comcast Center 2009 season with the result that the number of votes cast in the September 11<sup>th</sup> and 12<sup>th</sup> election significantly exceeded the number of ballots cast in either of the first two elections.

As the Board is aware, the August 17, 2009 Excelsior List reflected voter eligibility based on the 12-month period immediately preceding the issuance of the Supplemental DDE in this

matter. The August 17<sup>th</sup> list differed from the Excelsior List used for the June 19 – 21, 2009 election in the following manner: (a) The August 17<sup>th</sup> Excelsior List contains twenty-nine names not found on the Excelsior List used for the June 19-21 election; and (b) the August 17<sup>th</sup> Excelsior List does not contain nine names found on the previous list.

During the September 11-12 election, there were twenty-four challenged ballots cast:<sup>1</sup> Four of the individuals whose names were not on the August 17<sup>th</sup> Excelsior List but who appeared on the earlier list voted and their ballots were challenged by DLC, *i.e.* Austin Colby, Brendan Langord, John Mathison and Hugh O’Haire; sixteen of the individuals whose names only appeared on the August 17<sup>th</sup> Excelsior List voted and their ballots were challenged by the Board Agent, *i.e.* Edward Bailey, John Boyle, Alexandra Bruno, Jeffrey Gordon, Jeffrey Griffin, Paul Liebig, Steven McArdle. Leslie McIntyre, Sean McKinney, Derek McLean, Patrick O’Conner, Michelle Parker, Marcus Root, Anthony Spinnato, Larry Stewart and Jay Trant;<sup>2</sup> three individuals whose names appear on neither Excelsior List appeared to vote and were challenged by the Board Agent, *i.e.* Kenneth Boyle, George Chmielecki and Frederick Nordahl; and one voter whose name appears on both lists was challenged by Local 11, *i.e.* Paul Gattoni.

Local 11 hereby withdraws its opposition to the use of the August 17<sup>th</sup> Excelsior List contingent on the challenged ballots and vote count being handled as follows:

- A. The four challenges lodged by DLC are sustained;
- B. The Board’s challenges to the ballots of the sixteen employees whose names only appear on the August 17<sup>th</sup> Excelsior List are rejected;
- C. The Region opens and counts these ballots and then determines if the votes of the thirteen employees whose names only appear on the August 17<sup>th</sup> Excelsior List but who did not vote alone are determinative. If so, a new election would be

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<sup>1</sup> The list of challenged voters accompanies this Supplemental Opposition and is designated as Exhibit A.

<sup>2</sup> DLC specifically encouraged the 29 “add-ons” to vote in the September 11-12, 2009 election which, at least in part, explains the fairly high percentage of add-ons who appeared and voted subject to challenge.

ordered. If the thirteen potential votes plus the four additional challenges would be determinative, an investigation/hearing on those four additional challenges would be conducted and the results would be used to determine whether a new election is required.

Simply stated, Local 11 is prepared to withdraw its opposition to the use of the August 17<sup>th</sup> Excelsior List so long as its agreement on this issue does not, in the Board's opinion, require the conducting of a new election.

Respectfully submitted,  
For the Petitioner,  
IATSE, Local 11,

*/s/ Gabriel O. Dumont, Jr./*  
Dumont, Morris & Burke, P.C.  
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Date: October 1, 2009

### **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the Petitioner's Supplemental Opposition to Employer's Request for Review of the Regional Director's Orders has this day been forwarded, via e-mail, to Elizabeth Cyr, Esq. and Lawrence D. Levien, Esq., counsel for DLC Corp. d/b/a Live Nation New England at [Ecyr@akingump.com](mailto:Ecyr@akingump.com) and [Llevien@akingump.com](mailto:Llevien@akingump.com) and to Rosemary Pye Regional Director, at [Rosemary.Pye@nlrb.gov](mailto:Rosemary.Pye@nlrb.gov).

October 1, 2009

*/s/ Gabriel O. Dumont, Jr./*

EMPLOYER

CASE NUMBER

Hive Nation

-RC-

DATE OF ELECTION

BOARD AGENT

CHECK ONE

IMPOUNDED BALLOTS

DETERMINATIVE CHALLENGED BY

9/11/09  
John Powers

NAME OF EMPLOYEE

CHALLENGED BY

REASON

	NAME OF EMPLOYEE	CHALLENGED BY	REASON
1	Paul Gattoni	Union	Eligibility
2	John Mathison	Employer	"
3	Austin Colby	Employer	"
4	Hugh O'Hare	Employer	"
5	Alexandra Brown	Board	NOL
6	Edward Bailey	Board	NOL
7	John Boyle	Board	NOL
8	Derek McLean	Board	NOL
9	Marcus Root	Board	NOL
10	Brenton Langford	Employer	Eligibility
11	Harry Stewart	Board	NOL
12	Jeff Gordon	Board	NOL
13	Steve McArdle	Board	NOL
14	Jay Trant	Board	NOL
15	Jeffery Griffin	Board	NOL
16	Paul Kiebig	Board	NOL
17	Frederick Noddah	Board	NOL
18	Patrick O'Connor	Board	NOL
19	Lestie McIntire	Board	NOL

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EMPLOYER

Live Nation

CASE NUMBER

1-RC-

DATE OF ELECTION

9/11+12/09

BOARD AGENT

Chowers

CHECK ONE



IMPOUNDED BALLOTS



DETERMINATIVE CHALLENGED B.

NAME OF EMPLOYEE

CHALLENGED BY

REASON

20  
21  
22  
23  
24

Michelle Parker

Board

NOK.

Kenneth Bogle

Board

NOK

Anthony Spinale

Board

NOK

Sean McKinney

Board

NOK.

George Chmielecki

Board

NOK.