



1 **II. FACTUAL BACKGROUND**

2 SAG–AFTRA is a union that represents nearly 165,000 media artists who work  
3 in various media formats. (Espinosa Decl. ¶ 3.) SAG–AFTRA is the successor-in-  
4 interest to the Screen Actors Guild, Inc. (*Id.* ¶¶ 1, 3.)

5 On July 25, 2001, Goldade executed a Screen Actors Guild Theatrical  
6 Adherence Letter. (*Id.* ¶ 4, Ex. A.) In this Letter, Goldade agreed to be bound by the  
7 Screen Actors Guild Codified Basic Agreement of 1995 for Independent Producers  
8 and the 1998 Memorandum Agreement (collectively, “CBA”). (*Id.* ¶ 4, Ex. B, D  
9 (relevant portions of the Basic Agreement of 1995).) In August 2001, Goldade  
10 executed a Screen Actors Guild Independent Producers’ Limited Exhibition Letter  
11 Agreement and a Security Agreement. (*Id.* ¶ 4, Exs. B, C.)

12 During the CBA’s term, Goldade produced a motion picture titled “Sex and the  
13 Teenage Mind,” which is also known as “Virgil” or “Virgil Gets Laid.” (*Id.* ¶ 5.)  
14 Goldade used SAG–AFTRA actors or other performers covered by the agreements to  
15 produce the film. (*Id.* ¶ 7.)

16 Goldade eventually released the film in additional markets in violation of  
17 paragraph 4 of the Limited Exhibition Letter Agreement. (*Id.* ¶ 8.) This expanded  
18 release triggered Goldade’s obligation to pay the performers salary upgrades as  
19 enumerated in the Letter Agreement. (*Id.* ¶ 9, Ex. B at ¶ 4.) Section 34 of the CBA  
20 also required Goldade to pay additional pension and health contributions. (*Id.* ¶ 10,  
21 Ex. D.)

22 Goldade did not pay the additional required amounts. (*Id.* ¶ 11.) This  
23 additional failure triggered late-payment liquidated damages under section 31.B of the  
24 CBA. (*Id.* ¶ 12, Ex. D.)

25 On January 17, 2007, SAG–AFTRA served Goldade with a Statement of Claim  
26 and Demand for Arbitration for the unpaid amounts per section 9 of the CBA. (*Id.*  
27 ¶ 13, Ex. E.) SAG–AFTRA and Goldade selected Sara Adler to serve as the

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1 arbitrator. (*Id.* ¶ 15.) After Goldade requested and received two continuances of the  
2 arbitration, SAG–AFTRA objected to a third continuance. (*Id.* ¶ 16, Ex. F.)

3 On June 1, 2010, the arbitration was held. Adler offered Goldade an  
4 opportunity to appear telephonically, but it refused the offer. (*Id.* ¶ 17.) On June 25,  
5 2010, Adler issued an arbitration award in SAG–AFTRA’s favor and against Goldade.  
6 (*Id.*, Ex. G.) Specifically, Adler awarded \$113,118.20, which consisted of the  
7 following amounts:

- 8 • \$22,756.42 in salary upgrades
- 9 • \$3,140.42 in pension and health contributions
- 10 • \$3,491.36 in payroll taxes and fees
- 11 • \$83,800.00 in late-payment liquidated damages

12 (*Id.* Ex. G.)

13 Goldade has failed to comply with the arbitration award. (*Id.* ¶ 20.) Goldade  
14 informed SAG–AFTRA that it is unable to make any payments to fulfill the award.  
15 (*Id.* ¶ 21.) As a result, SAG–AFTRA filed this Petition on June 23, 2014. (ECF  
16 No. 1.) Despite being served with the Petition, Goldade has not opposed the Motion  
17 or otherwise responded. The Motion is now before the Court for decision.

### 18 **III. JURISDICTION**

19 This Court has original jurisdiction over “actions and proceedings by or against  
20 labor organizations” that have their principal office in this district or have duly  
21 authorized officers or agents engaged in representing or acting for employee–members  
22 in this district. 29 U.S.C. § 185(c). SAG–AFTRA has its principal place of business  
23 in Los Angeles, California, which is located in the Central District of California. The  
24 Court therefore has original jurisdiction over this confirmation petition.

### 25 **IV. LEGAL STANDARD**

26 When the parties to a collective-bargaining agreement have agreed to arbitrate  
27 their dispute, the arbitrator has the sole authority to interpret the agreement. *United*  
28 *Steelworkers of Am. v. Am. Mfg. Co.*, 363 U.S. 564, 567–68 (1960). This is because

1 the parties have bargained for the arbitrator’s interpretation—not that of a court.  
2 *United Steelworkers of Am. v. Enter. Wheel & Car Corp.*, 363 U.S. 593, 599 (1960).  
3 The arbitrator may draw her interpretation from many sources but must stay true to the  
4 agreement’s interpretation. *Id.* at 597. An arbitrator’s award is legitimate so long as  
5 “it draws its essence from the collective bargaining agreement.” *Id.*

6 The Court’s role in confirming a labor arbitration award is extremely limited.  
7 *Am. Mfg. Co.*, 363 U.S. at 568–69. The Court may only ascertain “whether the party  
8 seeking arbitration is making a claim which on its face is governed by the contract.”  
9 *Id.* at 569; *United Steelworkers of Am. v. Warrior & Gulf Nav. Co.*, 363 U.S. 574, 582  
10 (1960). The merits of the arbitrator’s decision are irrelevant unless “the arbitrator’s  
11 words manifest an infidelity to this obligation.” *Enter. Wheel & Car Corp.*, 363 U.S.  
12 at 597; *see also Am. Mfg. Co.*, 363 U.S. at 568.

## 13 V. DISCUSSION

14 The Court finds that SAG–AFTRA and Goldade agreed to arbitrate any  
15 disputes arising from the CBA and the Limited Exhibition Letter Agreement. The  
16 Court accordingly confirms the arbitration award.

### 17 A. Confirmation of arbitration award

18 While the arbitrator made several findings and awarded various types of  
19 damages, this Court’s sole job in determining whether to confirm the award is to  
20 ascertain whether SAG–AFTRA and Goldade agreed to arbitrate this type of dispute.  
21 *Warrior & Gulf Nav.*, 363 U.S. at 582.

22 Section 9 of the CBA provides, in relevant part, that “[a]ll disputes between the  
23 Union and a Producer as to the interpretation of this collective bargaining agreement  
24 shall be arbitrable.” (Espinosa Decl. Ex. D, at 49.) Goldade explicitly agreed to be  
25 bound by the CBA via the Theatrical Adherence Letter. (*Id.* Ex. A (“It is agreed that  
26 this letter is part of the [CBA], and by executing this letter, the undersigned Producer  
27 and Screen Actors Guild . . . shall be deemed to have executed the [CBA].”))

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1           The dispute between SAG–AFTRA and Goldade arose over Goldade  
2 distributing its film outside the limited release area previously agreed to by the parties  
3 in the Independent Producers’ Limited Exhibition Letter Agreement. (*See id.* Ex. B.)  
4 While this Letter Agreement does not include its own arbitration clause, section 3 of  
5 the Agreement provides that “all the terms of [the CBA] apply as described above [in  
6 the Letter Agreement] except as hereby modified.” (*Id.*) This means that the Limited  
7 Exhibition Letter Agreement operated as a modification of the CBA’s terms—or, in  
8 other words, the parties incorporated the Letter Agreement into the CBA. Since  
9 Goldade agreed to arbitrate disputes involving interpretation of the CBA, it follows  
10 that it agreed to arbitrate disputes concerning the incorporated Letter Agreement.

11           The Court accordingly finds that the parties agreed to submit this type of  
12 dispute to arbitration, thereby requiring the Court to confirm the arbitration award.

13 **B. Additional late-payment liquidated damages**

14           SAG–AFTRA also contends that it is “entitled to additional late payment  
15 liquidated damages . . . through the date of this motion pursuant to section 31 of the  
16 CBA for Respondent’s continuing failure to pay outstanding amounts due.” (Mot. 8–  
17 9.) SAG–AFTRA requests \$2,400.00 in attorneys’ fees, which is calculated based on  
18 eight hours of work at \$300 per hour. The union indicates that these late-payment  
19 liquidated damages continue to accrue at \$2.50 per day since the date of the arbitration  
20 award, which was June 25, 2010. In total, they seek an additional \$75,000 in  
21 liquidated damages.

22           SAG–AFTRA cites no authority for the Court’s ability to award additional  
23 amounts upon confirming the arbitration award. Indeed, the idea of “confirming” an  
24 award belies any notion that the Court can alter the award. SAG–AFTRA would be  
25 entitled to additional liquidated damages if the arbitrator included such an ongoing-  
26 damages finding in her award. But she did not. Rather, the arbitrator awarded a sum  
27 certain of \$83,800.00 in late-payment liquidated damages and was silent on the issue  
28 of whether the damages continued to accrue. (Espinosa Decl. Ex. G.) It would run

1 counter to the Supreme Court’s line of cases interpreting LMRA § 301 to award  
2 additional amounts upon confirming an arbitration award, as the “courts . . . have no  
3 business weighing the merits of the grievance.” *Am. Mfg.*, 363 U.S. at 568. Rather, it  
4 “is the arbitrator’s construction which was bargained for.” *Enter. Wheel & Car Corp.*,  
5 363 U.S. at 599.

6 The Court therefore declines to award additional liquidated or other damages  
7 and **DENIES** SAG–AFTRA’s Motion on this ground.

8 **C. Attorneys’ fees**

9 Under the “American rule,” a prevailing party is not entitled to attorneys’ fees  
10 unless provided for by contract or statute. *Int’l Union of Petrol. & Indus. Workers v.*  
11 *W. Indus. Maint., Inc.*, 707 F.2d 425, 428 (9th Cir. 1983). But “a court may assess  
12 attorneys’ fees ‘when the losing party has ‘acted in bad faith, vexatiously, wantonly,  
13 or for oppressive reasons.’” *Id.* (quoting *Alyeska Pipeline Serv. Co. v. Wilderness*  
14 *Soc’y*, 421 U.S. 240, 258–59 (1975)). The Ninth Circuit has interpreted “bad faith” in  
15 the labor-arbitration-award context to include “an unjustified refusal to abide by an  
16 arbitrator’s award.” *Id.*

17 The Court declines to award SAG–AFTRA attorneys’ fees it incurred in  
18 bringing this Petition, as the Court finds that Goldade has not engaged in bad-faith,  
19 vexatious, wanton, or oppressive conduct. It appears that the sole reason for  
20 Goldade’s failure to comply with the arbitration award is an inability to pay the rather  
21 substantial amount. While the company’s depressed financial situation certainly does  
22 not excuse its duty to fulfill the award, it also does not provide a basis for a punitive  
23 award of attorneys’ fees. After all, an attorneys’-fees award is the exception—not the  
24 rule.

25 **D. Costs**

26 SAG–AFTRA also requests reimbursement for the \$400 filing fee it incurred in  
27 bringing this petition. Federal Rule of Civil Procedure 54(d) provides that “[u]nless a  
28 federal statute, these rules, or a court order provides otherwise, costs—other than

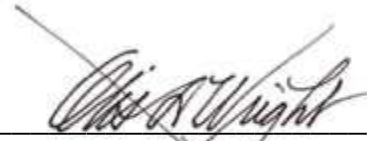
1 attorney's fees—should be allowed to the prevailing party.” Since SAG–AFTRA is  
2 the prevailing party in this case, the Court awards it the \$400 filing fee. *See* L.R. 54-  
3 3.1 (allowing reimbursement for filing fees).

4 **VI. CONCLUSION**

5 For the reasons discussed above, the Court **CONFIRMS** the arbitration award  
6 in this action in the amount of \$113,188.20 and **AWARDS** \$400.00 in costs. (ECF  
7 No. 1.) But the Court declines to award additional liquidated damages or attorneys'  
8 fees. A judgment will issue.

9 **IT IS SO ORDERED.**

10  
11 July 18, 2014

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14 **OTIS D. WRIGHT, II**  
15 **UNITED STATES DISTRICT JUDGE**  
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