

February 7, 2013

New Zealand Official Orders 'Hobbit' Document Release

By Jonathan Handel

Warner Bros.' New Line unit warns that disclosure of sensitive communications between the company and the government would be a "major disincentive" to future production in the country.

Ruling on requests filed in the wake of a 2010 attempt to unionize actors on *The Hobbit*, a New Zealand official has effectively ordered the release of confidential communications between New Line, **Peter Jackson's** Wingnut Films and government ministers, all of which opposed the unionization attempt as well as the document requests.

The ruling quotes New Line as saying that some of the documents reflect the company's "negotiations and innermost thinking, including certain strategic decisions, legal and personal opinions, offers from third party governments and other private information."

The Jan. 31 [ruling](#), by the country's Ombudsman, is styled as a recommendation, but the recommendation matures on approximately March 1 into a "public duty" imposed on the government. Thus, documents will apparently be disclosed by that date, absent extraordinary action to the contrary by **Queen Elizabeth's** representative in New Zealand, the Governor-General.

The objection by New Line included a warning, as quoted in the ruling: "If the government is not willing to adequately protect this sensitive information from disclosure, this will operate as a major disincentive to motion picture studios as well as local and foreign talent – to utilize New Zealand as a location for future productions."

A studio spokesperson declined to comment.

Wingnut was also quoted in the ruling as being highly critical of possible release of documents: "I can categorically assure you that if the above information was released and a similar situation occur in the future, neither myself nor Wingnut Films would be inclined to help the Government again with such a candid level of advice and opinion." The ruling did not indicate whether "I" referred to Jackson.

In a partial victory for the government, the Ombudsman declined to order release of a 2010 opinion by the government's in-house legal advisors, despite the fact that the document had been disclosed to Jackson and New Line parent Warner Bros. That report, written by the Crown Law department, formed the legal justification for the government's decision to weigh in on the side of the studio and Jackson – and against the union, New Zealand Actors Equity, which was attempting to organize local actors on *The Hobbit*.

The unionization effort burst into public view in September 2010. After quieter attempts to resolve matters had gotten nowhere, NZAE enlisted the assistance of an international federation of actors unions, whose member unions – including SAG, AFTRA and U.S. Actors Equity – slapped a “do not work” alert on the project.

Jackson charged then that the union action risked driving the project out of the country, a stance he [reiterated](#) shortly before the film’s world premiere about two months ago in Wellington.

NZAE vice president **Phil Darkins** disagreed. “When virtually every performers union on the planet says ‘we won’t sign on,’ where on earth are you going to take your production?,” he said at a conference in November.

Nonetheless, the affair ended with Warner Bros. extracting an additional \$25 million in incentives and advertising funds from the island nation and securing emergency passage of anti-union legislation, apparently negotiated directly between the government and key Warners executives including New Line president **Toby Emmerich** and Warner Home Entertainment president **Kevin Tsujihara**, who becomes Warner Bros. CEO effective March 1.

The document requests were filed by NZ Council of Trade Unions president **Helen Kelly** and **Brent Edwards** of Radio New Zealand.

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February 27, 2013

Newly Released 'Hobbit' Documents Reveal Details of Nasty Union Dispute

By Jonathan Handel

The documents highlight the role Peter Jackson played in opposing what he called the “toxic nonsense” of a unionization effort.

The New Zealand government has released forty-one pages of previously confidential documents relating to a 2010 attempt to unionize actors on *The Hobbit*, offering an unusual glimpse behind the scenes of a nasty public dispute that ended in a stinging defeat for the local actors union – and in a stunning outcome for the country’s government, which ended up paying Warner Bros. an additional \$25 million in tax incentives and other fees in order to quell the threat that the production might be moved to another country.

The government at that time also pushed through legislation that effectively makes it impossible to unionize motion picture production in the country.

The [document disclosure](#) came in response to a Jan. 31 [ruling by New Zealand’s ombudsman](#), a government official, who ordered the release over the objections of Warner Bros.’ New Line unit, director/producer **Peter Jackson** and two government ministers.

Many of the documents are emails between Jackson and Minister of Economic Development **Gerry Brownlee**.

In one message, to the country’s Attorney-General, Jackson and his wife and producing partner **Fran Walsh** describe themselves as “not anti-Union,” and add that they are “very proud and loyal members of three Hollywood Unions – the Directors Guild, the Producers Guild and the Writers Guild. We have always supported the Screen Actors Guild.” (The Producers Guild is not actually a union.)

But a couple weeks later, in an Oct. 15, 2010, email to Brownlee, Jackson denounces union organizer **Simon Whipp**: “[He] has played you like a fool. Unfortunately, you engaged with a snake, who now feels quite fearless. He is in revenge mode, intent on inflicting as much damage as he can, to our film, to our film industry, to our country.”

Jackson also referred to the unionization effort as “toxic nonsense.”

Complicating the dispute from the start was the fact that the local actors’ union, NZ Actors Equity, is a subsidiary of an Australian union, the Media, Entertainment & Arts Alliance.

Jackson said, “In the end, this is not about Actor's Equity, not is it about *The Hobbit* – it is about an Australian trade union making a blatant play to take a controlling hand in the NZ film industry – for their own political and financial gain.”

Left unremarked by Jackson was the fact that Warner Bros. isn’t based in New Zealand either.

In a statement this week, Jackson said that he hoped the document release would “put to rest the unfounded conspiracy theories that sought to characterize these events as a Hollywood studio dictating terms to a sovereign government – a charge that is as spurious now as it was then.”

That comment isn’t consistent with what played out in 2010, when Prime Minister **John Key** said that Warners was asking for legislative change and additional money as a condition of keeping *The Hobbit* shoot in New Zealand.

“I think it’s fair to say on the financial side there’s a fair bit of hardball being played on both sides,” Key said at the time. He added, “We have the capacity to move a little bit, but we don’t have the capacity to write out checks that we can’t afford to cash.”

“In the end,” he said then, “money talks in Hollywood. That’s just the way it works.”

In addition, Brownlee said at the time that he would meet with Warners representatives when they arrived in New Zealand in order to “see what their requirements might be.”

Nor was Warner Bros. the only studio pressuring the country’s government. Another released document from 2010 – a government memo not *Hobbit* related – indicates that Disney “advised Film New Zealand” that if Actors Equity did not change its procedures for responding to requests for visas for foreign actors, “Disney is unlikely to continue with plans to bring future productions to New Zealand.”

The *Hobbit* unionization effort burst into public view in September 2010. After quieter attempts to resolve matters had gotten nowhere, NZ Actors Equity enlisted the assistance of an international federation of actors unions, whose member unions – including SAG, AFTRA and U.S. Actors Equity – slapped a “do not work” alert on the project.

Jackson charged then that the union action risked driving the project out of the country, a stance he [reiterated](#) shortly before the film’s world premiere about three months ago in Wellington.

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Nonetheless, the affair ended with Warner Bros. extracting an additional \$25 million in incentives and advertising funds from the island nation and securing emergency passage of anti-union legislation, apparently negotiated directly between the government and key Warners executives including New Line president **Toby Emmerich** and Warner Home Entertainment president **Kevin Tsujihara**, who becomes Warner Bros. CEO effective March 1.

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The last piece of the Hobbit story



Written By: [HELEN KELLY](#) - Date published: 7:30 am, March 1st, 2013 - [103 comments](#)

Categories: [workers' rights](#) - Tags: [gerry brownlee](#), [hobbit docs](#), [peter jackson](#)

On the 20th of October 2010 Sir Peter Jackson went public with claims the Hobbit was endangered by a union do-not-work notice he described as “blacklisting”. The resulting fracas and the final deal done between the Government and Warners are now [all too well known](http://www.scoop.co.nz/stories/HL1104/S00081/helen-kelly-the-hobbit-dispute.htm)(<http://www.scoop.co.nz/stories/HL1104/S00081/helen-kelly-the-hobbit-dispute.htm>).

This Tuesday we saw the release of emails showing that Peter Jackson and Gerry Brownlee were aware that the do not work notice was lifted by the time the Sir Peter went public. Back in 2010, Brownlee [called me a liar](http://www.youtube.com/watch?v=XoUN2AGxrnA)(<http://www.youtube.com/watch?v=XoUN2AGxrnA>) when I put these facts forward, even though he knew them to be true and was at the table when they were agreed. Indeed Brownlee continues to obfuscate about the circumstances surrounding the deal.

I have now decided to [release the emails](https://thestandard.org.nz/wp-content/uploads/2013/02/warner-bros-hobbit-emails.pdf)(<https://thestandard.org.nz/wp-content/uploads/2013/02/warner-bros-hobbit-emails.pdf>) between Warners and the US Screen Actors Guild showing that everyone knew the dispute was over and the ban lifted. Normally in a settlement this type of correspondence would be kept confidential, but Warners have not played straight and the public deserve better.

These emails show that all parties to the negotiations were aware that the do not work notice had been lifted two days before Sir Peter went public and that the unions and Warners were in the process of drafting agreed press releases to announce it. The emails also show the union had agreed to hold its release until Warners was ready. This is made clear from the email sent by senior Warners executive, Stephen Carroll on the 18th of October:

From: Carroll, Stephen [REDACTED]
Sent: Monday, October 18, 2010 8:43 PM
To: John McGuire
Subject:

John,

This is what our writers think they can sell to Peter Jackson. Does this work for you? Once we get Peter’s OK with the statement, we are good to go.

“New Line Productions, Warner Bros. Pictures, and MGM are pleased that the Screen Actors Guild, the Federation of International Actors, and New Zealand Actors Equity have retracted their various Do Not Work Orders for *The Hobbit*. The producers have a long history of treating performers in New Zealand and elsewhere in a fair and equitable manner. For *The Hobbit*, it has been and will be no different. We look forward to the New Zealand Government, Actors Equity and SPADA continuing their recent discussions to re-establish stability in the New Zealand Film Industry.”

Stephen C. Carroll
 Vice President Senior Labor Relations Counsel
 Warner Bros. Pictures
 [REDACTED]

<http://thestandard.org.nz/wp-content/uploads/2013/02/Warners-email.jpg>)

Looking back on what happened in 2010, I think there were three fundamental elements of this dispute:

A small organisation with limited resources and a vulnerable workforce, sought to enjoy what other workers in their industry enjoy worldwide – the international right to collectively bargain.

A major international corporation combined with a powerful NZ film company, and an anti- worker Government, to ensure

there would not be union bargaining in the growing NZ film industry.

In a deal was struck without basis and against our international legal obligations, that removed even the most basic of work rights from the entire workforce (minimum wage protections, Holidays Act, protection from unfair dismissal).

The Government and others lied to the people of New Zealand in an effort to retain the perception of a crisis in order to gain legitimacy for its actions. It was a shameful moment in New Zealand's political history.

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-----Original Message----- [MEAA]
From: Simon Whipp [REDACTED]
Sent: Sunday, October 17, 2010 6:58 PM
To: John McGuire [SAG]
Subject: Draft press statement

Following positive developments in discussions between SPADA and NZ Equity over the last week, in the spirit of good faith, NZ Equity has today recommended to all international performance unions that they rescind any forms of advice to their members that they not work on the feature film production "The Hobbit".

----- Original Message -----
From: John McGuire <[REDACTED]>
To: Simon Whipp
Sent: Mon Oct 18 10:32:25 2010
Subject: RE: Draft press statement

This looks very good to me. Can you call me on the [REDACTED] number.

-----Original Message-----
From: John McGuire [REDACTED]
Sent: Monday, October 18, 2010 2:43 PM
To: Carroll, Stephen [Warner Bros]
Subject: FW: Draft press statement

This is the Board motion. Simon agreed not to release anything until we hear back from you.

From: Carroll, Stephen [REDACTED]
Sent: Monday, October 18, 2010 8:43 PM
To: John McGuire
Subject:

John,

This is what our writers think they can sell to Peter Jackson. Does this work for you? Once we get Peter's OK with the statement, we are good to go.

"New Line Productions, Warner Bros. Pictures, and MGM are pleased that the Screen Actors Guild, the Federation of International Actors, and New Zealand Actors Equity have retracted their various Do Not Work Orders for *The Hobbit*. The producers have a long history of treating performers in New Zealand and elsewhere in a fair and equitable manner. For *The Hobbit*, it has been and will be no different. We look forward to the New Zealand Government, Actors Equity and SPADA continuing their recent discussions to re-establish stability in the New Zealand Film Industry."

Stephen C. Carroll
Vice President Senior Labor Relations Counsel
Warner Bros. Pictures
[REDACTED]

-----Original Message-----
From: John McGuire [REDACTED]
Sent: Monday, October 18, 2010 5:48 PM
To: Carroll, Stephen
Subject: RE:

Since I've shared Simon's statement with you do you have an objection to my running this past him in confidence?

-----Original Message-----

From: Carroll, Stephen
Sent: Monday, October 18, 2010 5:52 PM
To: 'John McGuire'
Subject: RE:

Not at all.

Stephen C. Carroll
Vice President Senior Labor Relations Counsel
Warner Bros. Pictures
[REDACTED]

From: Carroll, Stephen [REDACTED]
Sent: Monday, October 18, 2010 8:53 PM
To: Carroll, Stephen; John McGuire
Subject: RE:

Meaning I don't mind at all and you should run it by Simon.

Stephen C. Carroll
Vice President Senior Labor Relations Counsel
Warner Bros. Pictures
[REDACTED]

From: John McGuire
To: Simon Whipp
Sent: Tue Oct 19 11:59:20 2010
Subject: FW:
I'm OK with this statement, what do you think?

From: Carroll, Stephen [REDACTED]
Sent: Tuesday, October 19, 2010 9:18 PM
To: John McGuire
Subject: RE: Draft press statement

John,

The following is what the Jackson camp has come back with. They want to specifically identify those unions with members that will be engaged as performers on the production.

"New Line Productions, Warner Bros. Pictures, and MGM are pleased that the Federation of International Actors, including the Screen Actors Guild, British Equity and New Zealand Actors Equity/MEAA have retracted their various Do Not Work Orders for the two part feature film The Hobbit, which is to be directed by Peter Jackson. The producers of The Hobbit have always treated performers from New Zealand and overseas in a fair and respectful manner. The Hobbit has not been, and will not be, any different. The terms and conditions we are offering our performers, including a residual pool for New Zealand actors unilaterally and voluntarily created by New Line, Warner Bros and MGM, continue to be both fair and equitable. We look forward to the New Zealand Government, New Zealand Actors Equity and SPADA continuing their recent discussions to re-establish stability in the New Zealand Film Industry."

Peter and Fran reacted badly to the "good faith" aspect of Equity's statement and is what delayed this response. New Line talked him off the ledge, but has asked me to request consideration of the

following, which to me sounds like a deal was brokered in the SPADA/Equity discussions but I'm fine with that.

"Following positive developments in discussions between SPADA and NZ Equity over the last week and in an effort to re-establish stability in the NZ film industry, NZ Equity has today recommended to all international performance unions that they rescind any forms of advice to their members that they not work on the feature film production "The Hobbit"."

Stephen C. Carroll
Vice President Senior Labor Relations Counsel
Warner Bros. Pictures


