

U.S. Department of Labor

Office of Labor-Management Standards
Dallas District Office
525 Griffin Street
Room 300
Dallas, TX 75202
(972)850-2500 Fax: (972)850-2501



January 19, 2010

Mr. David Morris, President
Graphic Communications/IBT
Local 439S
704 Anthony Drive
Ennis, TX 75119

LM File Number 034-527
Case Number: [REDACTED]

Dear Mr. Morris:

This office has recently completed an audit of Local 439S under the Compliance Audit Program (CAP) to determine your organization's compliance with the provisions of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA). As discussed during the exit interview with you on January 8, 2010, the following problems were disclosed during the CAP. The matters listed below are not an exhaustive list of all possible problem areas since the audit conducted was limited in scope.

Recordkeeping Violations

Title II of the LMRDA establishes certain reporting and recordkeeping requirements. Section 206 requires, among other things, that labor organizations maintain adequate records for at least five years by which each receipt and disbursement of funds, as well as all account balances, can be verified, explained, and clarified. As a general rule, labor organizations must maintain all records used or received in the course of union business.

For disbursements, this includes not only original bills, invoices, receipts, vouchers, and applicable resolutions, but also documentation showing the nature of the union

business requiring the disbursement, the goods or services received, and the identity of the recipient(s) of the goods or services. In most instances, this documentation requirement can be satisfied with a sufficiently descriptive expense receipt or invoice. If an expense receipt is not sufficiently descriptive, a union officer or employee should write a note on it providing the additional information. For money it receives, the labor organization must keep at least one record showing the date, amount, purpose, and source of that money. The labor organization must also retain bank records for all accounts.

The audit of Local 439S's 2009 records revealed the following recordkeeping violations:

1. Lost Wage, Per Diem, and Travel Expenses

Local 439S did not retain adequate documentation for lost wage, per diem, and travel expense reimbursement payments to President David Morris totaling at least \$4,198, to Treasurer Minnie Barnes totaling at least \$1,013, to Recording Secretary Francis Zhanel totaling at least \$169, and to Vice-President Bruce Kubin totaling at least \$168. The union must maintain records in support of lost wage claims that identify each date lost wages were incurred, the number of hours lost on each date, the applicable rate of pay, and a description of the union business conducted. The union must maintain records in support of per diem payments including each date per diem is paid, the per diem amount, and a description of the union business conducted. The union must maintain records in support of travel expense claims that identify the dates of travel, travel destinations, each claimed expense, the expense amounts, and a description of the union business conducted. The OLMS audit found that Local 439S did not retain any supporting documentation for any payments made to officers. Local 439S recorded the accounting code(s) for each payment on the checks and check stubs and kept no other record of the payments.

2. Lack of Monthly Payment Authorization

Local 439S did not maintain records to verify that the monthly payments (dues rebates) paid to Local 439S officers reported in Item 24 (All Officer and Disbursements to Officers) of the LM-3 were the authorized amounts and therefore were correctly reported. The union must keep a record, such as bylaws or meeting minutes, to show the current monthly payment authorized by the entity or individual in the union with the authority to establish monthly payments.

3. Lack of Per Diem and Mileage Amount Authorization

Local 439S did not maintain records to verify that the per diem and mileage paid to Local 439S officers that should have been reported in Item 24 (All Officer and Disbursements to Officers) of the LM-3 were the authorized amounts and therefore were correctly reported. The union must keep a record, such as the bylaws or meeting minutes, to show the current amounts authorized by the entity or individual in the union with the authority to establish such amounts.

4. Other

Local 439S failed to retain receipts, invoices, or bills for some expenditures. For instance, Local 439S did not retain any supporting documentation of their monthly AOL internet electronic debits. Local 439S also failed to retain some dues check stubs and one dues checkoff report.

Based on your assurance that Local 439S will retain adequate documentation in the future, OLMS will take no further enforcement action at this time regarding the above violations.

Reporting Violations

The audit disclosed a violation of LMRDA Section 201(b), which requires labor organizations to file annual financial reports accurately disclosing their financial condition and operations. The Labor Organization Annual Report LM-3 filed by Local 439S for fiscal year ending May 31, 2009, was deficient in the following areas:

1. Disbursements to Officers

Local 439S did not include some reimbursements to officers totaling at least \$7,000 in the amounts reported in Item 24 (All Officers and Disbursements to Officers). It appears the union erroneously reported these payments in Item 48 Office and Administrative Expenses.

The union must report most direct disbursements to Local 439S officers and some indirect disbursements made on behalf of its officers in Item 24. A "direct disbursement" to an officer is a payment made to an officer in the form of cash, property, goods, services, or other things of value. See the instructions for Item 24

for a discussion of certain direct disbursements to officers that do not have to be reported in Item 24. An "indirect disbursement" to an officer is a payment to another party (including a credit card company) for cash, property, goods, services, or other things of value received by or on behalf of an officer. However, indirect disbursements for temporary lodging (such as a union check issued to a hotel) or for transportation by a public carrier (such as an airline) for an officer traveling on union business should be reported in Item 48 (Office and Administrative Expense).

2. Dues

Local 439S failed to report the total dues received by Local 439S during the audit year. Local 439S reported receiving \$16,428 in dues when the bank statements show that Local 439S received \$22,416 in dues.

3. Interest

Local 439S mistakenly reported \$35 in interest when Local 439S's bank account earned only \$0.40 in interest during the audit year.

4. Professional Fees

Local 439S mistakenly reported \$100 worth of disbursements in Item 49 Professional Fees instead of \$200. Two payments of \$100 each were made to a CPA.

Local 439S must file an amended Form LM-3 for fiscal year ending May 31, 2009, to correct the deficient items discussed above. I provided you with a blank form and instructions, and advised you that the reporting forms and instructions are available on the OLMS website (www.olms.dol.gov). The amended Form LM-3 should be submitted to this office at the above address as soon as possible, but not later than February 10, 2010. Before filing, review the report thoroughly to be sure it is complete, accurate, and signed properly with original signatures.

I want to extend my personal appreciation to Local 439S for the cooperation and courtesy extended during this compliance audit. I strongly recommend that you make sure this letter and the compliance assistance materials provided to you are passed on to future officers. If we can provide any additional assistance, please do not hesitate to call.

Mr. David Morris
January 19, 2010
Page 5 of 5

Sincerely,



Investigator

cc: Financial Secretary-Treasurer Minnie Barnes
Vice-President Bruce Kubin