

U.S. Department of Labor

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February 26, 2009

Mr. James Chase, Lodge President
Boilermakers AFL-CIO
Lodge 920
Portsmouth Naval Shipyard
PO Box 2010
Portsmouth, NH 03804-2010

LM File Number 516-601
Case Number: ||| ||| ||| |||

Dear Mr. Chase:

This office has recently completed an audit of Boilermakers Lodge 920 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 and Secretary-Treasurer David Schofield on February 24, 2009, 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.

The CAP disclosed recordkeeping violations, reporting violations, other violations, and other issues.

Recordkeeping Violations

Title II of the LMRDA establishes certain reporting and recordkeeping requirements. Section 206 of the LMRDA and Title 29 of the Code of Federal Regulations (C.F.R.) Section 403.7 require, among other things, that labor organizations maintain adequate records for at least five years after reports are filed by which the information on the

reports can be verified, explained and clarified. Pursuant to 29 C.F.R. Section 458.3, this recordkeeping provision of the LMRDA applies to labor organizations subject to the requirements of the Civil Service Reform Act of 1978 (CSRA) as well. Therefore, as a general rule, labor organization must retain 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 Lodge 920's 2007 records revealed the following recordkeeping violations:

1. General Reimbursed

Lodge 920 did not retain adequate documentation for reimbursed expenses and incurred by union officers and employees totaling at least \$1,800. For example, convention lodging and transportation expenses, reimbursements for meals, and reimbursements for office and administrative supplies did not have adequate documentation retained.

As previously noted above, labor organizations must retain original receipts, bills, and vouchers for all disbursements. The president and treasurer (or corresponding principal officers) of your union, who are required to sign your union's LM report, are responsible for properly maintaining union records.

2. Meal Expenses

Lodge 920 did not require officers and employees to submit itemized receipts for meal expenses totaling at least \$400. The union must maintain itemized receipts provided by restaurants to officers and employees. These itemized receipts are necessary to determine if such disbursements are for union business purposes and to sufficiently fulfill the recordkeeping requirement of LMRDA Section 206.

Lodge 920 records of meal expenses did not always include written explanations of union business conducted or the names and titles of the persons incurring the restaurant charges. For example, meals purchased for lodge meetings and other union business did not contain written explanations. Union records of meal expenses must include written explanations of the union business conducted and the full names and titles of all persons who incurred the restaurant charges. Also, the records retained must identify the names of the restaurants where the officers or employees incurred meal expenses.

3. Other Expenses

Lodge 920 did not retain adequate documentation for lodge expenses totaling at least \$3,000. These expenses included: per capita payments, pizza for lodge meetings, gifts to members in need, and office and administrative expenses including conference and convention registrations.

As previously noted above, labor organizations must retain original receipts, bills and vouchers for all disbursements. The president and treasurer (or corresponding principal officers) of your union, who are required to sign your union's LM report, are responsible for properly maintaining union records.

4. Failure to Record Receipts

Lodge 920 did not record in its general ledger a receipt totaling \$579.10. The receipt was for a reimbursement of officer travel expenses. Union receipts records must include an adequate identification of all money the union receives. The records should show the date and amount received, and the source of the money.

5. Other Receipts

Lodge 920 did not retain adequate documentation for lodge receipts totaling at least \$4,500. These receipts included employer check-off dues payments and an officer travel expense reimbursement.

As previously noted above, labor organizations must retain at least one record showing the date, amount, purpose, and source of money received. The president and treasurer (or corresponding principal officers) of your union, who are required

to sign your union's LM report, are responsible for properly maintaining union records.

6. Information not Recorded in Meeting Minutes

Article 7, Section 1 of the Boilermakers Lodge 920 By-laws requires that a monthly financial report be given by the Secretary-Treasurer each month and, once it has been approved by the membership, shall be made a permanent part of the minutes of the meeting. However, Lodge 920 did not maintain seven months of meeting minutes during the audit year. Minutes of all membership or executive board meetings must report any disbursement authorizations made at those meetings.

7. Lack of Salary Authorization

Lodge 920 did not maintain records to verify at least \$3,800 of the salaries reported in Item 24 (All Officer and Disbursements to Officers) of the LM-3 were the authorized amounts and therefore was correctly reported. Specifically, Lodge 920 did not maintain records to verify Article 10, Section 1 of the lodge's by-laws, which sets the Secretary-Treasurer's monthly allowance at \$1.25 per member. The union must keep a record, such as a monthly membership list or meeting minutes, to show the current salary authorized by the entity or individual in the union with the authority to establish salaries.

8. Lack of Bank Statements

Lodge 920 did not maintain any bank statements for the lodge's savings account and certificates of deposits. The union must maintain all bank statements. Also, the lodge did not maintain all cancelled checks provided with the lodge's checking account statements during the audit year. The union must maintain all cancelled checks provided by the bank.

The proper maintenance of union records is the personal responsibility of the individuals who are required to file Lodge 920's LM report. You should be aware that under the provisions of Section 209(a) of the LMRDA and Section 3571 of Title 18 of the U.S. Code, willful failure to maintain records can result in a fine of up to \$100,000 or imprisonment for not more than one year, or both. Under the provisions of Section 209(c) of the LMRDA and Section 3571 of Title 18 of the U.S. Code, willful destruction or

falsification of records can result in a fine of up to \$100,000 or imprisonment for not more than one year, or both. The penalties provided in Section 209(c) and Section 3571 of Title 18 apply to any person who caused the violations, not just the individuals who are responsible for filing the union's LM report.

Based on your assurance that Lodge 920 will retain adequate documentation in the future, OLMS will take no further enforcement action at this time regarding the above violations.

Reporting Violations

Pursuant to 29 C.F.R., Section 458.3, the reporting requirement under 29 C.F.R. Section 403.2 (see Section 201(b) of the Labor-Management Reporting and Disclosure Act (LMRDA)) is made applicable to labor organizations subject to the requirements of the CSRA. This provision requires labor organizations to file annual financial reports that accurately disclose their financial condition and operations. The audit disclosed a violation of this requirement. The Labor Organization Annual Report (Form LM-3) filed by Lodge 920 for fiscal year ending June 30, 2007, was deficient in the following areas:

1. Disbursements to Officers

Lodge 920 did not include some reimbursements to officers totaling at least \$15,400 in the amounts reported Item 24 (All Officers and Disbursements to Officers). It appears the union erroneously reported these payments in Item 54 (Other Disbursements).

The union must report most direct disbursements to Lodge 920 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. Cash Reconciliation

It appears that the cash figures reported in Item 25 are not the cash figures according to the union's books after reconciliation to the bank statements. The instructions for Item 25 state that the union should obtain account balances from its books as reconciled to the balances shown on bank statements.

3. Failure to Report Receipts

Lodge 920 under-reported receipts by \$880 in Statement B of the lodge's LM-3 filed for the fiscal year ending June 30, 2007. These receipts included interest received on the lodge's bank accounts and a payment received for reimbursement of officer convention expenses. The Statement B instructions state that receipts must be recorded when money is actually received by the labor organization.

4. Failure to Properly Categorize Receipts

Lodge 920 did not correctly categorize \$30 in interest received in Item 41 (Interest and Dividends). It appears as though the local erroneously reported these disbursements in Item 39 (Per Capita Tax). The instructions for Item 41 state the total amount of interest and dividends received by your organization from savings accounts, bond, mortgages, loans, investments, and all other sources must be entered in Item 41.

5. Failure to Properly Categorize Disbursements

Lodge 920 did not correctly categorize at least \$7,200 in office and administrative payments in Item 48 (Office and Administrative Expenses). It appears as though the local erroneously reported these disbursements in Item 54 (Other Disbursements). The instructions for Item 48 state the total amount of ordinary office and administrative expenses, for example, rent, utilities, office supplies, postage, subscriptions, fidelity bond premiums, etc. must be entered in Item 48.

6. Failure to File Bylaws

Pursuant to 29 C.F.R. Section 458.3, the requirement under 29 C.F.R. Section 402.4 implementing LMRDA Section 201(a) is made applicable to labor organizations subject to the requirements of the CSRA. This provision requires labor organizations to file copies of any revised constitution and bylaws when it files its annual financial report. The audit disclosed a violation of this requirement. Lodge 920 amended its constitution and bylaws in 2006, but did not file the required copies with its LM report for that year.

Lodge 920 has now filed a copy of its constitution and bylaws.

Lodge 920 must file an amended Form LM-3 for fiscal year ending June 30, 2007, 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 March 19, 2009. Before filing, review the report thoroughly to be sure it is complete, accurate, and signed properly with original signatures.

Other Violations

The audit disclosed the following other violation:

Pursuant to 29 C.F.R. Section 458.35, officers and employees of any labor organization subject to the CSRA are required to be bonded in accordance with Section 502(a) of the LMRDA. This provision requires that union officers and employees be bonded for no less than 10% of the total funds those individuals or their predecessors handled during the preceding fiscal year. Officers and employees of Lodge 920 are currently bonded for \$7,500; however, they must be bonded for at least \$15,336.

Lodge 920 should obtain adequate bonding coverage for its officers and employees immediately. Please provide proof of bonding coverage to this office as soon as possible, but not later than March 19, 2009.

Other Issues

Retention of Voided Checks

Lodge 920 did not retain all checks voided by the lodge. All voided checks should be retained by the lodge. OLMS recommends that Lodge 920 review these procedures to improve internal control of union funds.

I want to extend my personal appreciation to Boilermakers Lodge 920 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.

Sincerely,

Mark Letizi
District Director

cc: David Schofield, Secretary-Treasurer