

U.S. Department of Labor

Employment Standards Administration
Office of Labor-Management Standards
Cleveland District Office
1240 East Ninth Street
Room 831
Cleveland, OH 44199
(216)357-5455 Fax: (216)357-5425



June 17, 2009

Mr. Thomas Beach, Secretary-Treasurer
Machinists AFL-CIO
Local Lodge 1151
7692 State Route 309
Galion, Ohio 44833

LM File Number 012-183

Case Number: [REDACTED]

Dear Mr. Beach:

This office has recently completed an audit of Machinists Local Lodge 1151 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 Grand Lodge Auditor Paul Kendall on May 6, 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.

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 Lodge 1151's 2008 records revealed the following recordkeeping violations:

1. General Reimbursed and Other Union Expenses

Local Lodge 1151 did not retain adequate documentation for disbursements made during the period January through June 2008. For example, no supporting documents were available for lost time payments, office equipment purchases, union hall maintenance expenses, officer travel expenses, and retirement party reimbursements totaling at least \$6,769.

As previously noted above, labor organizations must retain original receipts, bills, and vouchers for all disbursements. Additionally, 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 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. Incomplete Receipt Records

Local Lodge 1151 did not retain adequate documentation for income received and deposited from January through June 2008. For example, donations, employer dues checkoff, self-paid unemployment dues, union hall rent, auction income, and deposits were not supported by any documentation. Although all receipts were recorded in the union's receipts journal and deposited into the union's bank account, a record recording the source of the income was not retained. 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.

Based on your assurance that Local Lodge 1151 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 Form LM-3 filed by Local Lodge 1151 for fiscal year ending December 31, 2008, was deficient in the following areas:

1. 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.

2. Disbursements to Officers

Local Lodge 1151 did not report the name of the secretary-treasurer and the total amount of payments to him or on his behalf totaling at least \$1,638 in Item 24 (All Officers and Disbursements to Officers). The union must report in Item 24 all persons who held office during the year, regardless of whether they received any payments from the union. Additionally, Local Lodge 1151 did not include some reimbursements to officers totaling at least \$4,818 in the amounts reported Item 24 (All Officers and Disbursements to Officers). It appears the union erroneously reported these payments in Item 48 (Office and Administrative Expense).

The union must report most direct disbursements to Local Lodge 1151 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).

3. Dues Receipts

Local Lodge 1151 did not include in the amount reported in Item 38 (Dues) some dues receipts totaling at least \$11,964. It appears that the union erroneously underreported dues checkoff and unemployment dues receipts.

The union must report in Item 38 dues received directly by the local from members, dues received from employers through a checkoff arrangement, and dues transmitted to the local by a parent body or other affiliate. The full amount of dues received must be reported, including any portion that will later be transmitted to an intermediate or parent body as per capita tax. If an intermediate or parent body receives dues checkoff directly from an employer on behalf of the local, do not report in Item 38 the portion retained by that organization for per capita tax or other purposes, such as a special assessment. Any amounts retained by the intermediate body or parent body other than per capita tax must be explained in Item 56 (Additional Information).

4. Certificates of Deposit Reported As Investments

Local Lodge 1151 improperly included the value of certificates of deposit as investments in Statement A (Assets and Liabilities). For LM reporting purposes, OLMS considers a certificate of deposit to be cash. The purchase or redemption of a certificate of deposit is a transfer of cash from one account to another and, therefore, the local should not report these transactions as receipts or disbursements.

5. Failure to File Bylaws

The audit disclosed a violation of LMRDA Section 201(a), which requires that a union submit a copy of its revised constitution and bylaws with its LM report when it makes changes to its constitution or bylaws. Local Lodge 1151 amended

its bylaws in 2001, but did not file a copy with its LM report for that year. You acknowledged that the local would comply with the requirement in the future, and provided your most recent bylaws to OLMS at the opening interview.

Local Lodge 1151 must file an amended Form LM-3 for fiscal year ending December 31, 2008, 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 June 30, 2009. Before filing, review the report thoroughly to be sure it is complete, accurate, and signed properly with original signatures.

Other Issues

1. Duplicate Receipts

The audit revealed that union representatives (including trustees, stewards, shop chairmen, etc.), who collected unemployment dues in the field and turned them in to the secretary-treasurer on behalf of members, did not issue duplicate receipts to members. OLMS recommends that Local Lodge 1151 use a duplicate receipt system where the union issues original pre-numbered receipts to all members who make payments directly to the union and retains copies of those receipts. A duplicate receipt system is an effective internal control because it ensures that a record is created of income which is not otherwise easily verifiable. Each union officer or representative who collects dues should utilize a duplicate receipt book. If more than one duplicate receipt book is in use, the union should maintain a log to identify each book, the series of receipt numbers in each book, and to whom each book is assigned.

2. Dual Signature Requirement

The audit disclosed that several checks were signed by only one officer. The local's bylaws require that all checks be signed by the president and secretary-treasurer. The two signature requirement is an effective internal control of union funds. Its purpose is to attest to the authenticity of a completed document already signed. However, one signature does not attest to the authenticity of a completed check, and negates the purpose of the two signature requirement. OLMS recommends that Local Lodge 1151 review these procedures to improve internal control of union funds.

Mr. Thomas Beach
June 17, 2009
Page 6 of 6

I want to extend my personal appreciation to Machinists Local Lodge 1151 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,

A solid black rectangular box redacting the signature of the investigator.

Investigator

cc: Harold Langford, President
Paul Kendall, Grand Lodge Auditor