

U.S. Department of Labor

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Office of Labor-Management Standards
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April 15, 2008

Mr. Murray Dorn, President
Machinists Local Lodge 459
1010 East Highway 96
Vadnais Heights, MN 55127

LM File Number: 015-189
Case Number: [REDACTED]

Dear Mr. Dorn:

This office has recently completed an audit of Machinists Local 459 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 Secretary-Treasurer David Jensen, Grand Lodge Auditor Rick Fischer, and you on January 31, 2008, 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 459's 2007 records revealed the following recordkeeping violations:

1. General Reimbursed and Credit Card Expenses

Local 459 did not retain adequate documentation for reimbursed expenses incurred by union officers totaling at least \$193.63. For example, check number [REDACTED], dated May 17, 2007, for \$71.63 to MGM Liquors, is not supported by a receipt or other documentation.

As 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. Lost Wages

Local 459 did not retain adequate documentation for lost wage reimbursement payments to officers totaling at least \$3,753.81. Local 459 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 audit found that Local 459 did not have lost wage vouchers for some payments and vouchers for other payments lacked a description of the union business conducted. As an example, the majority of vouchers for payments to Secretary-Treasurer David Jensen provide no description of the union business conducted.

Based on your assurance that Local 459 will retain adequate documentation in the future, OLMS will take no further enforcement action at this time regarding the above violations.

Reporting Violation

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 459 for fiscal year ending December 31, 2007, was deficient in that Local 459 failed to include per capita tax sent to the International from District 77.

Local 459 officers explained during the audit that check-off payments are sent directly to Local 459's intermediate body (Machinists District Lodge 77). District Lodge 77 retains a portion of the receipts for per capita tax, and disburses the remainder to the International and the local. Local 459's dues have been processed this way for a couple of years.

Local 459 only included on its 2007 LM-3 report the portion of dues actually remitted to Local 459, but not the portion remitted to the International on the local's behalf by the District Lodge. Local 459 must include in the amount reported in Item 36 (Dues) and Item 47 (Per Capita Tax) the portion of per capita tax forwarded to the International from the District Lodge.

Page 38 of the LM-2 instructions provides that:

"Receipts and disbursements by an agent on behalf of the labor organization are considered receipts and disbursements of the labor organization and must be reported in the same detail as other receipts and disbursements. For example, if the labor organization owns a building managed by a rental agent, the agent's rental receipts and disbursements for expenses must be reported on the labor organization's Form LM-2. Also, if the labor organization's parent body or an intermediate body functions as an agent receiving and disbursing funds of the labor organization to third parties, these receipts and disbursements must be reported on the labor organization's Form LM-2. For example, if a parent body receives the labor organization's dues and makes disbursements from that money to pay the labor organization's bills (such as payments to an attorney for legal services), those receipts and disbursements must be reported on the labor organization's Form LM-2."

The portion of the dues payment retained by the intermediate body for per capita tax or other purposes should not be included on the local's report. However, any local funds retained by the intermediate body for purposes other than payment of the local's per capita tax must be explained in the additional information section of the LM report.

Intermediate and parent bodies that collect dues checkoff on behalf of their subordinate bodies must report as receipts any dues checkoff retained from these subordinates as per capita tax in Item 37 of Form LM-2 and the dues checkoff to be remitted to their subordinate bodies in Item 46 of Form LM-2. Correspondingly, any dues checkoff

remitted to subordinate bodies should be reported as a disbursement in Item 63 of Form LM-2. Additionally, the intermediate and parent bodies should report as receipts in Item 48 of Form LM-2 any dues checkoff received on behalf of their subordinate bodies and later disbursed on behalf of the subordinates as per capita taxes to other affiliates. The per capita tax payments made on behalf of the subordinate bodies should be reported as disbursements in Item 53 of Form LM-2 as General Overhead.

The amount of per capita tax that Local 459 must include on the 2007 LM report is \$189,329. This amount will bring Local 459's total receipts figure to \$333,918, which means that Local 459 is required to file an LM-2, instead of an LM-3, for the fiscal year ending December 31, 2007.

Local 459 must file an amended Form LM-2 for fiscal year ending December 31, 2007, to correct the reporting deficiency discussed above. Form LM-2 must be filed electronically using software available on the OLMS website (www.olms.dol.gov). The amended Form LM-2 must be filed as soon as possible, but not later than May 2, 2008. Before filing, review the report thoroughly to be sure it is complete and accurate, and properly signed with electronic signatures.

I want to extend my personal appreciation to Machinists Local 459 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,



Investigator

cc: Secretary-Treasurer David Jensen
Grand Lodge Auditor Rick Fischer