

U.S. Department of Labor

Employment Standards Administration
Office of Labor-Management Standards
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August 31, 2009

Mr. Mark Zillges, President
Machinists Lodge 1947
314 North Lark Street
Oshkosh, WI 54902

LM File Number: 014-602
Case Number: [REDACTED]

Dear Mr. Zillges:

This office has recently completed an audit of Machinists Lodge 1947 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, Secretary Treasurer Brad Miller, and International Union Auditor Rick Fischer on August 17, 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.

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 Lodge 1947's 2008 records revealed the following recordkeeping violations:

1. Per Diem Payments

Article VI, Section 3 of the Lodge 1957 by-laws provides that when officers or employees travel overnight to conduct union business, per diem is paid per the IRS schedule. Additionally, for any conference whereby meals are provided, per diem shall be paid at the rate of \$20 per day regardless of the destination. The vouchers maintained by the union do not identify the specific dates and amounts claimed for each date for over \$1,800 in per diem payments to officers and employees. Instead, the vouchers only identify the total per diem claimed for each trip. During the audit, Mr. Fischer advised that the daily per diem rate is based on the final destination for each day of travel. For example, if an officer leaves Fond du Lac, WI and travels to Madison, WI for an overnight conference, the officer would receive the daily per diem rate for the Madison area for the first day of travel and the daily per rate for Fond du Lac on the second day of travel. However, this method of calculating per diem payment amounts is not apparent on the vouchers nor is it identified in any other written document maintained by Lodge 1947. The records retained by Lodge 1957 are not sufficient because they do not indicate how the per diem payments made were calculated, and the amounts paid are not consistent with a general reading of the requirements of Section 3.

Additional records need to be maintained that identify the per diem rate received for each date of travel to ensure that the payment is in an amount that is authorized and is consistent with the by-law provision and does not include additional payment for other expenses.

2. Reimbursed Auto Expenses

Several officers who received reimbursement for business use of their personal vehicles did not retain adequate documentation to support payments to them totaling at least \$800 during 2008. The union must maintain records which identify the dates of travel, locations traveled to and from, and number of miles driven. The record must also show the business purpose of each use of a personal vehicle for business travel by an officer or employee who was reimbursed for mileage expenses.

The mileage records maintained by Lodge 1947 failed to document the destinations of travel. Several vouchers also lacked the identification of travel dates.

3. General Disbursement Records

Lodge 1947 failed to retain adequate documentation for over \$3,500 of disbursements to vendors during the audit year, including 14 checks to the Fond du Lac Area Chamber of Commerce (\$2,500).

As mentioned earlier, adequate records must be kept for at least five years so that each receipt and disbursement of funds, as well as all account balances, can be verified, explained, and clarified. For disbursements this includes, among other things, original bills, invoices, and receipts.

4. Failure to Record Raffle Receipts and Disbursements

Lodge 1947 did not record in its receipts records more than \$1,500 received from members for the purpose of purchasing raffle tickets at monthly membership meetings. During the opening interview, Mr. Miller advised that the lodge conducts a raffle in which members pay \$1 per ticket to become eligible to win door prizes that are sponsored by the lodge. The cash that is collected is then donated to a family in need from the lodge based on a motion passed at the meeting. The donation is disbursed in cash. Lodge 1947 did not record the receipt or disbursement of these funds in its records.

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. Likewise, union disbursements records must also include an adequate identification of all money disbursed by the lodge. The records maintained must identify the date and amount disbursed, the recipient of the disbursement, as well as the purpose for which the money is being disbursed.

5. Lost Wages

Adequate documentation was not retained by Lodge 1947 to support lost wage payments to you totaling more than \$900. 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 audit found that Lodge 1947 requires lost wage claims to be submitted on vouchers at the beginning of each month for all wages that are expected to be incurred by officers or employees during the month. You submitted claims for wages on dates that company records show that you were either working or receiving vacation payment. Additional investigation revealed that several dates identified on the vouchers were incorrect because meetings and conference dates were rescheduled after lost wage vouchers were submitted; however, the vouchers were never updated to reflect the change in date.

Based on your assurance that Lodge 1947 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 Lodge 1947 for fiscal year ending December 31, 2008, was deficient in the following areas:

1. Acquire/Dispose of Property

Item 13 (During the reporting period did your organization acquire or dispose of any assets in any manner other than by purchase or sale?) was answered yes, however the Lodge failed to sufficiently identify the value of assets that were given away. During the audit year, Lodge 1947 gave away the following: 1) door prizes valued at approximately \$5-\$10 per door prize to members at membership meeting, 2) watches to retired members valued at approximately \$2,800, and 3) Chamber of Commerce gift cards to retired members valued at \$2,500.

The union must identify the type and value of any property received or given away in the additional information section of the LM report along with the identity of the recipient(s) or donor(s) of such property. The union does not have to itemize every recipient of such giveaways by name. The union can describe the recipients by broad categories if appropriate such as "members" or "new retirees."

2. Other Assets

Amounts reported in Item 30 (Other Assets) at both the beginning and end of the fiscal year failed to include the value of the assets the lodge had on hand, including an inventory of watches, door prizes, beer, and liquor. During the audit, Treasurer Miller confirmed that the local had an inventory of all these items at the beginning and end of the 2008 fiscal year.

3. Purchase of Investments and Fixed Assets

Lodge 1947 failed to include disbursements for the purchases of a photocopier and printer in the amount identified in Item 52 (Purchase of Investments and Fixed Assets). It appears that these disbursements were erroneously reported in either Item 48 (Office and Administrative) or Item 54 (Other Disbursements). Lodge 1947 also failed to report the value of the fixed assets purchased during the audit year in the amount reported in Item 29B (Fixed assets at the end of the year).

I am not requiring that Lodge 1947 file an amended LM report for 2008 to correct the deficient items, but Lodge 1947 has agreed to properly report the deficient items on all future reports it files with OLMS.

I want to extend my personal appreciation to Machinists Lodge 1947 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: Brad Miller, Secretary Treasurer
Wayne Belongia, Trustee