

U.S. Department of Labor

Employment Standards Administration
Office of Labor-Management Standards
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August 6, 2009

Mr. Frank Heinen, President
Machinists, AFL-CIO
Lodge 2401
10282 Rock Springs Rd.
West Valley, NY 14171

LM File Number 067-237
Case Number: [REDACTED]

Dear Mr. Heinen:

This office has recently completed an audit of Machinists, Lodge 2401 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 treasurer Jim Barnhart, on August 4, 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 Lodge 2401 records for fiscal year ending December 31, 2008 revealed the following recordkeeping violations:

1. General Expenses

Lodge 2401 did not retain adequate documentation for general expenses incurred by the lodge totaling at least \$6,900. For example, Lodge 2401 paid the following: Costa's West Valley Hotel \$2,852.75 in restaurant charges associated with membership meetings; the Fireside Inn \$761 for awards dinner expenses; and paid Madigan's \$3,300 for Christmas party expenses. The receipts failed to identify the name and location of the restaurants involved and the number of members participating.

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 2401 records of meal expenses did not always include written explanations of union business conducted, the names and titles of the persons incurring the restaurant charges or the name and location of the restaurant itself. These deficiencies were all present as Lodge 2401 reimbursed John Beltz for \$618.91 in lunch negotiation expenses and Frank Heinen for \$97.25 for negotiating expenses.

Lodge 2401 records of meal expenses must include written explanations of the union business conducted and full names and titles of all persons who incurred the restaurant charges and the location and name of the restaurant itself. This detail is necessary to determine if such disbursements are for lodge business purposes and to sufficiently fulfill the recordkeeping requirement of LMRDA Section 206.

3. Reimbursed Auto Expenses

Lodge 2401 reimbursed Treasurer Barnhart in mileage expenses totaling \$356.27 as he used his personal car for conducting lodge business. However, the records maintained were not adequate to support the payments to Barnhart. The lodge 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 Barnhart or any other officer and/or member or employee who was reimbursed for mileage expenses.

Based on your assurance that Lodge 2401 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 2401 for fiscal year ending December 31, 2008 was deficient in the following areas:

1. Disbursements to Officers

Lodge 2401 did not include payments to lodge officers, President Frank Heinen, (at least \$299.19); Vice President John Beltz, (at least \$1,806.24); and Treasurer Jim Barnhart, (at least \$3,117.27), in Item 24 (All Officers and Disbursements to Officers). It appears the lodge erroneously reported these payments in Item 48, Office and Administrative, and/or Item 54, Other Disbursements and reported only \$0 amounts in Item 24 and subsequently Item 45. The lodge must report most direct disbursements to Lodge 2401 officers and some indirect disbursements made on behalf of its officers in Item 24, D or E. 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. 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. Lodge 2401 amended its bylaws in 2003, but did not file a copy with its LM report for that year.

Lodge 2401 has now filed a copy of its bylaws during the audit.

Lodge 2401 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 also 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 no later than August 21, 2009 as agreed. 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 Machinists, Lodge 2401, for the cooperation and courtesy extended to me during this compliance audit. Please ensure that this letter and the compliance assistance materials provided to you and Treasurer Barnhart are retained for future officer's use and reference. If I can be of any further assistance, please do not hesitate to call.

Sincerely,



Senior Investigator

cc: Jim Barnhart, Treasurer, Lodge 2401

Eun Lamb, Secretary Treasurer, District Council 65

Mr. Frank Heinen
August 6, 2009
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