

U.S. Department of Labor

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



April 13, 2010

Mr. David Felder, Financial Secretary
Machinists AFL-CIO
Lodge 2159
4515 River Road
Norwalk, OH 44857

LM File Number 005-751
Case Number: [REDACTED]

Dear Mr. Felder:

This office has recently completed an audit of Machinists Lodge 2159 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 on April 1, 2010, 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 2159's 2008 records revealed the following recordkeeping violation:

Lodge 2159 did not maintain an inventory of T-shirts and other property it purchased, sold, or gave away, including the four Nintendo Wii video games it donated to nursing homes. The union must report the value of any union property on hand at the beginning and end of each year in Item 30 (Other Assets) of the LM-3. The union must retain an inventory or similar record of property on hand to verify, clarify, and explain the information that must be reported in Item 30.

Based on your assurance that Lodge 2159 will retain adequate documentation in the future, OLMS will take no further enforcement action at this time regarding the above violation.

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 2159 for its 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?) should have been answered, "Yes," because the union gave away T-shirts and Nintendo Wii video game machines totaling more than \$1,943.00 during the year. 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." In addition, the union must report the cost, book value, and trade-in allowance for assets that it traded in.

2. Improper Date of Election of Officers

Item 22 on the lodge's 2008 LM-3 report listed the lodge's next officer election as taking place in December 2009, when it had actually taken place a year previously. Item 22 is for listing the date of the lodge's election of its general officers (President, Vice President, Treasurer, Secretary, etc.).

3. Disbursements to Officers

Lodge 2159 did not report the names of some officers and the total amounts of payments to them or on their behalf in Item 24 (All Officers and Disbursements to Officers). In particular, Vice President Joseph Serraino and Trustee Kenneth Timmons were not listed and they also received payments of \$367.34 and \$272.02, respectively, during the year. 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.

The union must report most direct disbursements to Lodge 2159 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).

4. 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 2159 amended its bylaws in 2006, but did not file a copy with its LM report for that year.

Lodge 2159 has now filed a copy of its 2006 bylaws, and has also filed a copy of its 2009 bylaws.

Lodge 2159 must file an amended Form LM-3 for its fiscal year ending December 31, 2008, to correct the deficient items discussed above. I provided you with blank forms and instructions, and advised you that the reporting forms and instructions are available on the OLMS website (www.dol.gov/olms). The amended Form LM-3 should be submitted to this office at the above address as soon as possible, but not later than April 26, 2010. Before filing, review the report thoroughly to be sure it is complete, accurate, and signed properly with original signatures.

Other Issues

During the audit, it was noted that Lodge 2159 sometimes has only your signature as the Financial Secretary on union checks. During the CAP opening interview, you stated that two signatories (the Financial Secretary and the President) were required on union checks. 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. The use of only one signatory does not attest to the authenticity of the completed check, and negates the purpose of the two signature requirement. I recommend that Lodge 2159 review its check writing procedures to improve its internal control of union funds.

I want to extend my personal appreciation to Machinists Lodge 2159 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

Mr. David Felder
April 13, 2010
Page 5 of 5

cc: Paul Kendall, IAM Grand Lodge Auditor