

U.S. Department of Labor

Office of Labor-Management Standards
Cincinnati District Office
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March 11, 2010

Mr. Phillip Newberry, Secretary Treasurer
Machinists AFL-CIO Lodge 804
21 Hearthstone Ct.
Florence, KY 41042

LM File Number: 066-020
Case Number: [REDACTED]

Dear Mr. Newberry:

This office has recently completed an audit of Machinists Lodge 2334 under the Compliance Audit Program (CAP) to determine its 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 Jack L. Hecker on February 25, 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 2334's 2008 records revealed the following recordkeeping violations:

1. Failure to Maintain Records

Lodge 2334 did not maintain deposit slips for deposits made in April and July 2009.

Based on your assurance that Lodge 2334 will retain adequate documentation in the future, OLMS will take no further enforcement action at this time regarding the above violations.

Reporting Violations

1. 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 Forms LM-3 filed by Lodge 2334 for fiscal years ending December 31, 2007 and 2008 were deficient in that the lodge misreported receipts from per capita taxes in Item 39 and per capita tax payments in Item 47 of the reports. Since dues deductions from members' wages were sent directly to an intermediate body, and the intermediate body withheld its portion and remitted the local lodge its share, Lodge 2334 was required to report only that amount received from the district lodge in Item 38 of its Form LM-3 reports.

As its receipts for each year were less than \$10,000, Lodge 2334 filed amended Form LM-4 reports for fiscal years ending December 31, 2007 and 2008. The amended reports were provided at the exit interview conducted February 26, 2010. Since Lodge 2334 has corrected this violation no further action is necessary.

2. The audit disclosed a violation of LMRDA Section 201 which requires labor organizations to file financial reports annually with the Department of Labor. Lodge 2334's LM report for the fiscal year ending December 31, 2007 was due March 30, 2008. The report for the fiscal year ending December 31, 2008 was due March 31, 2009. The reports were not received by the Department of Labor until July 10, 2009.

Because Lodge 2334 has now merged with Lodge 804 and you have assured us that the reports will be filed on time in the future, no further action is warranted on this matter.

Other Violations

1. LMRDA Section 401(b) requires local labor organizations to hold officer elections at least every three years. The audit disclosed a violation of Section 401(b) in that Lodge 2334 failed to hold its regularly scheduled election of officers within the time frames specified by the LMRDA. Information gathered during the audit disclosed that the lodge had not held an officer election in more than five years.

Since Lodge 2334 has merged with Lodge 804 and you have confirmed that Lodge 804 will adhere to the time frames for conducting officer elections under the LMRDA, no action is required on this matter.

I want to extend my personal appreciation to Machinists Lodge 2334 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: Jack L. Hecker, Grand Lodge Auditor