

U.S. DEPARTMENT OF LABOR
EMPLOYMENT STANDARDS ADMINISTRATION

OFFICE OF LABOR-MANAGEMENT STANDARDS
211 W. FORT STREET, SUITE 1313
DETROIT, MICHIGAN 48226
PHONE: (313) 226-6200
FAX: (313) 226-4391



March 26, 2008

Mr. Greg Yaskanin, President
Painters AFL-CIO
Local 591
14587 Barber Avenue
Warren, MI 48088

Re: Case Number [REDACTED]
LM File Number: 009-814

Dear Mr. Yaskanin:

This office has recently completed an audit of Painters Local 591 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, Business Representative Erik Decker, and Financial Secretary/Treasurer Jeff Reed on December 4, 2007, 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 591's 2006 records revealed the following recordkeeping violations:

1. Lost Wages

Local 591 did not retain adequate documentation for lost wage reimbursement payments to union officers totaling at least \$654.80. 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 OLMS audit found that Local 591 failed to maintain any records relating to the lost time payments. During the exit interview, I provided a sample of an expense voucher that identifies the type of information and documentation that the local must maintain for lost wages and other officer expenses.

The audit also disclosed that the union does not have a clear policy that identifies the specific circumstances under which lost time may be authorized to be incurred. The lack of a detailed lost time policy and the union's failure to keep any records to support the lost time payments prevented OLMS from verifying that the payments included in Item 24 (All Officer and Disbursements to Officers) of Local 591's Labor Organization Annual Report (Form LM-3) were the authorized amounts and, therefore, were correctly reported. The union must keep a record, such as meeting minutes, to show the current lost time policy authorized by the entity or individual in the union with the authority to establish a lost time policy.

2. Meeting Attendance Payments

Local 591's bylaws provide for payments to Local 591 executive board members, trustees, and delegates for attending meetings. However, the local's bylaws are unclear as to which officers are entitled to payments for which meetings. Furthermore, the bylaws are also vague as to whether the meeting payments represent compensation for actual time spent at the meetings or for expenses incurred while attending the meetings.

In addition, Local 591 failed to keep records identifying which officer was being compensated for which meeting and at which rate of pay. Consequently, the accuracy of the amounts reported in Item 24 (All Officers and Disbursements to Officers) of Local 591's LM-3 report cannot be verified. Therefore, Local 591 must maintain a clear written policy regarding meeting attendance payments and complete and contemporaneous records to support all meeting attendance payments.

3. Reimbursed Officer Expenses

Local 591 did not retain adequate documentation for reimbursed stamp purchases and reimbursed cell phone expenses incurred by Mr. Decker totaling at least \$278. 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.

Furthermore, if the payments to Mr. Decker for the business use of his personal cell phone represent a nonaccountable expense allowance, then Local 591 must keep at least one record -- perhaps by inclusion in the union's bylaws or in the form of membership or executive board authorizations recorded in meeting minutes -- that clearly explains the union's authorized cell phone reimbursement policy. If, on the other hand, the payments to Mr. Decker reimbursed him for actual cell phone usage relating to the business of Local 591, then original cell phone bills with the reimbursed calls circled or otherwise designated must be maintained by Local 591.

4. Failure to Record Receipts

Local 591 did not record in its receipts records some payments received totaling approximately \$14,000 that were included on bank deposit tickets. For example, dues payments made by 13 individuals that the union failed to record in its books. 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.

5. Fixed Assets

The LM-3 instructions for Item 29 (Fixed Assets) define the book value of fixed assets as “cost less depreciation.” Local 591 reported \$0 in Item 29 of the LM-3 covering the audit period, thereby representing that it has fully depreciated all of its fixed assets, including two computers and various office furniture. The union, however, failed to maintain any records needed to verify the amount reported. To correct this violation, Local 591 must maintain records that document the cost basis of its fixed assets (e.g., purchase receipts, bills, invoices, etc.), as well as depreciation schedules or other similar records.

6. Receipts Not Accurately Recorded

Entries in Local 591’s cash receipts journal reflect the date the union recorded money, but not the date money was received. Union receipts records must show the date of receipt. The date of receipt is required to verify, explain, or clarify amounts required to be reported in Statement B (Receipts and Disbursements) of the LM-3. The LM-3 instructions for Statement B state that the labor organization must record receipts when it actually receives money and disbursements when it actually pays out money.

The audit also disclosed several inconsistencies between the local’s duplicate receipts and the cash receipts journal. Mr. Decker stated that some members have difficulty paying initiation fees in one lump sum. Those members make multiple smaller payments that total the initiation fee. However, limitations in the bookkeeping software prescribed by your parent body prevent the union from recording the multiple smaller payments in the cash receipts journal. Instead, the payments are recorded in the journal as a single transaction occurring on the arbitrary date when the full payment is entered. In order to accurately report receipts in Statement B, the union must maintain at least one record documenting the date, source, and amount of receipts. Failure to record the date money was received could result in the union reporting some receipts for a different year than when it actually received the monies.

7. Information Not Recorded in Meeting Minutes

During the audit, Mr. Decker advised OLMS that the membership authorizes all disbursements at membership meetings by approving the Financial Secretary/Treasurer’s financial reports. However, the minutes of the meetings do not always document the approval of the financial report. Minutes of all

membership or executive board meetings must report any disbursement authorizations made at those meetings.

8. Cancelled Checks

At the time of the audit, Local 591 did not have in its possession original cancelled checks totaling over \$1,500. As we discussed during the exit interview, your union is permitted to use a truncated checking account (an account in which original checks are not returned to the account holder), only if the financial institution retains the original checks or complete, clear, and legible images of the front and back sides of original checks for the required five years, and provides the checks (originals or copies) to the union without substantial delay. I recommend that you discuss with the bank the requirement that the records be maintained for five years, and ensure that the bank meets this requirement. If the bank does not maintain original or imaged canceled checks for five years, you must make arrangements for the local to otherwise do so.

9. Per Capita Taxes

Local 591 did not maintain all per capita tax statements. The union must maintain all statements in order to verify the amount reported in Item 39 (Per Capita Tax) of the LM-3.

Based on your assurance that Local 591 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(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. Local 591 amended its constitution and bylaws in 2003, but did not file a copy with its LM report for that year. Local 591 has now filed a copy of its constitution and bylaws.

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 591 for fiscal year ending December 31, 2006, was deficient in the following areas:

1. Disbursements to Officers

Local 591 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). 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 also report most direct disbursements to 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).

In addition, Local 591 failed to correctly report payments made on behalf of Mr. Decker in Item 24. Local 591 has an arrangement with Painters District Council 22 in which the former reimburses the latter for wages paid to Mr. Decker. These payments are considered "indirect disbursements" (as described above) to officers for reporting purposes and must be included in the amount reported in Column D (Gross Salary) of Item 24.

2. Cash Receipts

It appears that the figure reported in Item 44 (Total Receipts) is not the correct amount. A review of paper copies of the July, September, and October 2006 electronic cash receipts journal shows that September inaccurately reflects \$7,454 in receipts that also appear in July and October. In addition, during the opening interview, Mr. Reed disclosed that the union records officer's dues payments as receipts even though neither the officers nor the union actually pays the officers' dues. Also, the union's cash receipts journal reflects the day the union recorded the money, not the date the money was received. The aforementioned factors resulted in the local providing its certified public accountant with inaccurate information for completing Item 44 and Item 25 (Cash) on Local 591's LM-3 report.

3. Fidelity Bond

Local 591 inaccurately reported the maximum amount recoverable under a fidelity bond for a loss caused by any officer, employee, or agent of your organization who handles your organization's funds in Item 20 (Fidelity Bond). Your organization reported the maximum amount recoverable as \$0; however, the audit revealed the amount recoverable to be \$30,000.

I am not requiring that Local 591 file an amended LM report for 2006 to correct the deficient items, but Local 591 has agreed to properly report the deficient items on all future reports it files with OLMS.

Other Issues

The audit disclosed the following other issues:

1. Signing Blank Checks

During the audit, you advised that Greg Yaskanin signs blank checks. Your union's bylaws require that the president and treasurer sign all 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. However, signing a blank check in advance does not attest to the authenticity of a completed check, and negates the purpose of the two signature requirement. OLMS recommends that Local 591 review these procedures to improve internal control of union funds.

2. Dues Paid Directly by Members

To prevent, or at least inhibit, the misuse or embezzlement of their funds, most organizations including corporations, banks, etc., install internal controls over the handling of their finances. Adequate internal financial controls are essential in order for a union to fulfill its obligations under Titles II and V of the LMRDA. One such control that OLMS recommends Local 591 adopt is a requirement that members pay their dues by personal check or money order, rather than in cash. In addition, Local 591 should consistently utilize its duplicate receipts system to record the collection of dues. In cases where more than one duplicate receipt book is in use, it should maintain a log to identify each book, the series of receipt numbers in each book, and to whom each book is assigned. Furthermore, Local

591 officers should consider performing a cash count when money is turned over to another officer and sign a receipt that documents the parties involved and the date and amount of funds handed over.

3. Vouchers

Another financial safeguard that Local 591 should consider is to require the preparation of a payment voucher prior to issuing a union check. Payment vouchers normally contain an explanation of the disbursement being made. Invoices, bills, receipts, etc., that are being paid are normally attached to the payment voucher. Even where supporting records are not attached, the explanation included on the voucher may be useful in providing documentation concerning a particular disbursement represented by a canceled check.

4. Frequency of Deposits

During the opening interview, Local 591 advised that the business representative holds all money received by the union until he/she makes bank deposit. Bank deposits are made as necessary. OLMS recommends that Local 591 consider requiring its business representative to make regular, frequent deposits of dues and other union funds to the union's bank account. He/She should identify each deposit with a specific set or time period of receipts in the union's receipts journal to make the relationship between receipts and bank deposits perfectly clear and easily verifiable.

I want to extend my personal appreciation to Painters Local 591 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 are passed on to future officers. If we can provide any additional assistance, please do not hesitate to call.

Sincerely,

Ian Burg
District Director

cc: Erik Decker, Business Representative
Jeff Reed, Financial Secretary/Treasurer

