

U.S. Department of Labor

Employment Standards Administration
Office of Labor-Management Standards
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October 21, 2009

Mr. Paul Charbonneau, President
Painters Local 691
19 Richfield Street
New Bedford, MA 02740

LM File Number: 046-126

Case Number: [REDACTED]

Dear Mr. Charbonneau:

This office has recently completed an audit of Painters Local 691 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 October 16, 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 Painters Local 691's 2008 records revealed the following recordkeeping violations:

1. General Disbursements

Local 691 did not retain adequate documentation for expenses incurred by the local totaling at least \$618. For example, the local did not have receipts for \$600 paid to Elks Lodge #73 for hall rent and charitable contribution. The local's check register noted a check [REDACTED] as a "void" but the bank statement showed that check [REDACTED], written for \$18, was cashed on July 16, 2008. The local had the duplicate of the check but it was marked "void." The local also noted four checks in the register the end of the year that had no date, recipient, or amount.

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. Receipt Dates not Recorded

Local 691 records the date dues are received from members on the individual ledger cards, but did not maintain a separate receipts journal. Local 691 noted on a receipt document the date monthly dues receipts were transferred from the Financial Secretary to the Treasurer for deposit into the general checking account.

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 money out. 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 them. Local 691 failed to report \$2,127 in dues received in December 2008 as the dues were deposited and accounted for in January 2009.

Based on your assurance that Local 691 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 LM-3 filed by Local 691 for fiscal year ending December 31, 2008, was deficient in the following areas:

1. Disbursements To Officers

Local 691 did not include some salary and reimbursements to officers totaling at least \$387 in the amounts reported in Items 24 D and E (All Officers and Disbursements to Officers). It appears the union erroneously reported the salary and reimbursement payments in Item 54 (Other Disbursements). The local listed two individuals as officers in Item 24 who were not officers of the local. The disbursements to these individual totaling \$148 should have been reported in Item 51 (Contributions, Gifts & Grants) and Item 54 (Other Disbursements).

The union must report most direct disbursements to Local 691 officers and some 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).

2. Cash Receipts

The total cash receipts reported in Item 44 (Total Receipts) is not the total cash receipts for the audit year according to the union's books. The union reported a

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total of \$38,892 on the LM-3, however, the records show the union had \$41, 018 in cash receipts for the audit year.

3. Cash Reconciliation

It appears that the cash figures reported in Item 25 are not the cash figures according to the union's books after reconciliation to the bank statements. The instructions for Item 25 state that the union should obtain account balances from its books as reconciled to the balances on bank statements.

Local 691 must file an amended Form LM-3 for fiscal year ending December 31, 2008, to correct the deficient items discussed above. You were provided a blank form and instructions, and advised that the reporting forms and instructions are 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 not later than November 23, 2009. 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 Painters Local 691 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,

Mark Letizi
District Director

CC: Mr. Roger Brunnelle, Financial Secretary