

U.S. Department of Labor

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November 10,2008

Mr. Joseph McArdle
Laborers Local 1139
51 Hooper Street
Quincy, MA 02169

LM File Number: 543-460

Case Number: [REDACTED]

Dear Mr. McArdle:

This office has recently completed an audit of Laborers Local 1139 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 Secretary-Treasurer Wayne Smith on November 7,2008, 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 Laborers Local 1139's 2007 records revealed the following recordkeeping violations:

1. General Reimbursed and Credit Card Expenses

Local 1139 did not retain adequate documentation for reimbursed expenses and credit card expenses incurred by union officers and employees totaling at least \$1,092.12. For example, there was no hotel bill attached to the local's credit card statement to validate a payment of \$1,015.12 disbursed on October 11, 2007.

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. Disposition of Property

Local 1139 did not maintain an inventory of T-shirts it purchased and gave away. 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 Local 1139 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 1139 for fiscal year ending December 31, 2007, was deficient in the following areas:

1. Disbursements To Officers

Local 1139 did not report reimbursements to officers totaling at least \$3,191.77 in Item 24 E (Allowances and Other Disbursements). It appears that the local erroneously reported these payments in Item 54 (Other Disbursements).

The union must report most direct disbursements to Local 1139 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. An "indirect disbursement" to an officer is a payment to another party (including credit card companies) 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).

Local 1139 erroneously reported allowances/stipends paid to non-officers in Item 24 (Disbursements to Officers). The stipends/allowances should have been reported in Item 46 (To Employees).

2. Cash Receipts and Disbursements

Local 1139 reported \$106,155 in Item 38 (Dues) received during the audit year. The audit revealed that the local received \$106,164.88 in dues during the audit year. It appears that one dues check for \$9.88 was erroneously deposited into the local's share savings account instead of the checking account and was not figured into the dues total received for the audit year.

The local failed to report in Item 52 (Purchase of Investments & Fixed Assets) a disbursement of \$943.97 for a computer. It appears the local erroneously reported this disbursement in Item 54 (Other Disbursements).

3. 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 totaling \$729 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 traded in.

I am not requiring that Local 1139 file an amended report for 2007 to correct the deficient items, but Local 1139 has agreed to properly report the deficient items on all future report it files with OLMS.

I want to extend my personal appreciation to Laborers Local 1139 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. Wayne Smith, Secretary-Treasurer