



September 19, 2014

Mr. Johnny Williams, President  
Bricklayers Local 39

Case Number: 350-6000931( )  
LM Number: 035-881

Dear Mr. Williams:

This office has recently completed an audit of Bricklayers Local 39 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 and Financial Secretary/Treasurer Luke Henry on September 5, 2014, 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 39's 2013 records revealed the following recordkeeping violation:

#### 1. Disposition of Property

Local 39 purchased and gave to its members various gifts and prizes, totaling approximately \$3,000; during its annual Christmas party in 2013. Although the local maintained vendor receipts for the purchases, it failed to maintain a record of the members

who were actually given the gifts and prizes. Thus, had it been necessary, it would not have been possible to verify the disposition of those assets.

Based on your assurance that Local 39 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 Local 39 for fiscal year ending December 31, 2013, was deficient the following areas:

#### 1. Acquire/Dispose of Property

Item 13 of Local 39's 2013 LM-3 report (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 prizes and gifts totaling approximately \$3,000 during its annual Christmas party. The union must identify the type and value of any property given away in the additional information section of the LM report along with the identity of the recipients of such property. However, the union does not have to itemize on the LM-3 report every recipient of such giveaways by name. Rather, the union can describe the recipients by broad categories if appropriate such as "members" or "new retirees."

#### 2. Disbursements to Officers

Local 39 did not report the names of all officers and the total amounts of payments to them or on their behalf in Item 24 (All Officers and Disbursements to Officers) of the 2013 LM-3 report. 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. Specifically, Local 39 did not include the names of the past secretary/treasurer and the sergeant-at-arms who held office during 2013. Furthermore, the local did not include reimbursements to officers totaling at least \$8,397 in the amounts reported in Item 24 of the 2013 LM-3 report. It appears the union erroneously reported those payments in Item 48 (Office and Administrative Expenses).

The union must report most direct disbursements to Local 39 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).

3. Incorrect Receipts/Disbursements Figures

The audit revealed that Local 39 incorrectly reported its total receipts and disbursements in Statement B (Receipts and Disbursements) of its 2013 LM-3 report. Specifically, the receipts and disbursements totals are each off by approximately \$5,570. It appears the union incorrectly tried to reflect the increase in value of its investments in Statement B.

Under Statement B, receipts must be recorded when money is actually received by the union and disbursements must be recorded when money is actually paid out by the labor organization. In short, the purpose of Statement B is to report the flow of cash in and out of your organization during the reporting period. Therefore, an increase in the value of an asset would only be reflected in Statement A (Assets and Liabilities).

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. Local 39 amended its constitution and bylaws in either 2010 or 2011, but did not file a copy with its LM report for that year. However, Local 39 provided OLMS with a copy of its most recent bylaws during the compliance audit. Therefore, no action is required in that regard.

Local 39 must file an amended Form LM-3 for fiscal year ending December 31, 2013, to correct the deficient items discussed above. I'm enclosing a copy of the deficient report along with the Form LM-3 instructions. Additionally, I have included a listing of all receipts and disbursements per the compliance audit as a reference to assist you in amending the report.

The amended Form LM-3 should be submitted as soon as possible, but not later than October 10, 2014. Please call me if you have any questions or need assistance in amending the report.

I want to extend my personal appreciation to Bricklayers Local 39 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,

  
Senior Investigator

Enclosures: Deficient LM-3 Report  
LM-3 Form Instructions  
Receipts per OLMS audit  
Disbursements per OLMS audit  
CD-ROM: OLMS Compliance Assistance Materials

cc: Mr. Jeff T. Dever, CPA