



September 26, 2013

Mr. Anthony LoCurto, Business Manager
Plasterers & Cement Masons, AFL-CIO
Local Union 111
165 Division Street
North Tonawanda, NY 14120

Case Number: 120-09284 [REDACTED]
LM Number: 540-244

Dear Mr. LoCurto:

This office has recently completed an audit of Cement Masons Local 111 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 Business Agent Dennis LoCurto, Office Secretary Karen McKernan, future Business Manager Charles LoCurto, and you on September 13, 2013, 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 Violation

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 111's 2013 records revealed the following recordkeeping violation:

Meal Expenses

Local 111 did not require officers and employees to submit itemized receipts for meal expenses totaling at least \$518. The union must maintain itemized receipts provided by restaurants to officers and employees. These itemized receipts are necessary to determine if such disbursements are for union business purposes and to sufficiently fulfill the recordkeeping requirement of LMRDA Section 206.

In addition, Local 111 records of meal expenses did not always include written explanations of union business conducted or the names and titles of the persons incurring the restaurant charges. Union records of meal expenses must include written explanations of the union business conducted and the full names and titles of all persons who incurred the restaurant charges. Also, the records retained must identify the names of the restaurants where the officers or employees incurred meal expenses.

Based on your assurance that Local 111 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 (Form LM-2) filed by Local 111 for the fiscal year ended March 31, 2013, was deficient in the following areas:

1. Disbursements to Officers and Employees (LM-2)

Local 111 did not include the names of some officers, and payments to officers and employees totaling at least \$3,680 in Schedule 11 (All Officers and Disbursements to Officers) and Schedule 12 (Disbursements to Employees). It appears that the local erroneously reported these payments in Schedules 15 through 19.

The union must report in Column F of Schedules 11 and 12 (Disbursements for Official Business) direct disbursements to officers and employees for reimbursement of expenses they incurred while conducting union business. In addition, the union must report in Column F of Schedules 11 and 12 indirect disbursements made to another party (such as a credit card company) for business expenses union personnel incur. However, the union must report in Schedules 15 through 19 indirect disbursements for business expenses union personnel incur for transportation by public carrier (such as an airline) and for temporary lodging expenses while traveling on union business. The union must report in Column G (Other Disbursements) of Schedules 11 and 12 any direct or indirect disbursements to union personnel for expenses not necessary for conducting union business.

2. Automobile Expenses (LM-2)

Local 111 did not include in the amounts reported in Schedule 11 (All Officers and Disbursements to Officers) and Schedule 12 (Disbursements to Employees) disbursements for the operation and maintenance of union automobiles totaling at least \$6,096.

The LM-2 instructions provide two methods for reporting automobile-related expenses. The union must report in Schedules 11 and 12 direct and indirect disbursements for the operation and maintenance of union owned and leased vehicles and the operation and maintenance of vehicles owned by union personnel (including gasoline, repairs, and insurance). The union may divide the expenses and report them in Columns F and G based on miles driven for union business (supported by mileage logs) compared with miles driven for personal use.

Alternatively, rather than allocating the expenses between Columns F and G, if 50 percent or more of an officer's or an employee's use of a vehicle was for official business, the union may report all of the expenses relative to the vehicle assigned to the officer or employee in Column F of Schedule 11 or 12 with an explanation in Item 69 (Additional Information) that the officer or employee used the vehicle part of the time for personal business. Similarly, if a vehicle assigned to an officer or employee was used less than 50 percent of the time for business, all of the expenses relative to that vehicle may be reported in Column G with an explanation in Item 69 that the officer or employee used the vehicle partly for official business.

3. Failure to Itemize Disbursements and Receipts Properly (LM-2)

Local 111 did not properly report several "major" transactions in Schedules 14-19. A "major" transaction includes any individual transaction of \$5,000 or more or total transactions to or from any single entity or individual that aggregate to \$5,000 or more during the reporting period and which the local cannot properly report elsewhere in Statement B.

The audit found that throughout the period, reimbursements for payroll and operating expenses were received by the union from the associated funds. The union reported these receipts in Schedule 14 (Other Receipts) however improperly itemized the transactions. The union reported a single transactions for the full amount received during the period, rather than including a payer who provided a single receipt of \$5,000 or more. In addition, individual entities should be reported separately and should not be combined on one Itemization Page.

The audit further found that all Initial Itemization Pages for disbursements were reported in Schedule 19 (Union Administration) rather than allocating disbursements to the appropriate schedule within Schedules 15 through 19. These schedules reflect various services provided

to union members by the union. Please refer to the LM-2 instructions for allocating disbursements.

4. Statement B; Total Receipts and Disbursements

It appears that the total receipts and total disbursements reported on Statement B (Receipts and Disbursements) are not the figures according to Local 111's books. The union reported transfers between two union accounts on the form in Item 46 (On Behalf of Affiliates for Transmittal to Them) and Item 63 (to Affiliates of Funds Collected on Their Behalf).

The purpose of Statement B is to report the flow of cash in and out of the labor organization during the reporting period. Transfers between separate bank accounts do not represent the flow of cash in and out and therefore, should not be reported as receipts and disbursements.

5. Failure to Report Dues and Fees

Local 111 failed to properly report the dues and fees established by the organization in Item 21 (Dues and Fees). The audit found that the union properly reported Regular Dues on Line (a) and Initiation Fees on Line (c), however did not report the Working Dues paid by members. In addition, the union did not properly report on Line (e) for Work Permits.. The union reported a total of \$25 per week in work permits when in fact the labor organization does not issue work permits.

6. 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 111 amended its constitution and bylaws in 2013, but did not file a copy with its LM report for that year.

Local 111 has since filed a copy of its constitution and bylaws.

Local 111 must file an amended Form LM-2 for the fiscal year ended March 31, 2013, to correct the deficient items discussed above. The report must be filed electronically using the Electronic Forms System (EFS) available at the OLMS website at www.olms.dol.gov. The amended Form LM-2 must be filed no later than October 18, 2013. Before filing, review the report thoroughly to be sure it is complete and accurate.

I want to extend my personal appreciation to Cement Masons, Local 111 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: Mr. Dennis LoCurto, Business Agent
Ms. Karen McKernan, Office Secretary
Mr. Ralph Genovese, Accountant