



September 18, 2015

Mr. Pat Modugno, Treasurer
MPC Representative Union
6300 W. Howard
Niles, IL 60714

Case Number: 310-6005744 [REDACTED]
LM Number: 065329

Dear Mr. Modugno,

This office has recently completed an audit of MPC Representative Union 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, President Juan Castillo, and Recording Secretary Mark Krupa on September 15, 2015, 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 MPC Representative Union fiscal year 2014 records revealed the following recordkeeping violations:

1) Failure to Record Receipts

MPC Representative Union did not record in its receipts records the additional deposit related to the union's initial effort to purchase gift cards. Specifically, on November 14, 2013 the union withdrew \$52,525 in a single cashier's check to purchase gift cards.

Because the retailer would not accept such a large check, you redeposited the check back into the union's bank account on November 15, 2013. 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.

2) Meal Expenses

MPC Representative Employees Union did not require officers and employees to submit itemized receipts for meal expenses totaling at least \$259 reimbursed to President Juan Castillo by check dated October 1, 2013. 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.

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.

3) General Reimbursed and Credit Card Expenses

MPC Representative Employees Union did not retain adequate documentation for reimbursed expenses incurred by former secretary [REDACTED] totaling at least \$14.10 for postage on January 30, 2014.

MPC Employees Representative Union failed to maintain unused checks, which may or may not have been voided, numbered 1023, 1024, and 1035.

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.

4) Information not Recorded in Meeting Minutes

During the audit, Mr. Castillo advised OLMS that the executive board met and discussed issuing gift cards to members and that he authorized the disbursement of union funds for this purpose during the meeting. MPC Constitution, Article 7, Section 1 states: "It shall be the duty of the recording secretary to keep full and accurate minutes of all meetings." However, the union did not maintain minutes to record the authorization of this disbursement of union funds. Minutes of all membership or executive board meetings that authorize disbursements of funds are to be maintained.

In addition, MPC Employees Representative Union did not retain adequate documentation to verify disbursements paid to members for funeral benefits. Specifically, the union did not maintain records to verify funeral benefit payment of \$1,000 paid to member [REDACTED]

and individual \$500 payments to members [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], and [REDACTED].

Also, MPC Employees Representative Union did not retain adequate documentation to verify union disbursements of Target gift cards issued to members according to their seniority. Specifically, the union purchased 460 gift cards that valued \$25, \$75, or \$135. Members with less than one year service received \$25; members with more than one year, but less than five years of service received \$75; and members with more than five years of service received \$135. The union later purchased an additional 6 gift cards valued at \$60 each, totaling \$360, to provide to those members who erroneously received \$75 gift cards and deserved \$135 because of their seniority was greater than the union originally thought. The union failed to maintain disbursement records that identified the recipients of 17 gift cards, one card valued at \$25, 15 cards valued at \$75 each, and one card valued at \$135, which collectively totaled \$1,705.

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.

Based on your assurance MPC 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-3) filed by MPC Representatives Union for the fiscal year ended August 31, 2014, was deficient in the following areas:

- 1) Item 2 "Period Covered" is to cover a 12 month period. The union reported its fiscal year from August 31, 2013 to August 31, 2014 and the union's full fiscal year is from September 1, 2013 through August 31, 2014.
- 2) MPC did not include two reimbursements to officers totaling \$287.20 in the amounts reported in Item 24 (All Officers and Disbursements to Officers). It appears the union erroneously reported these payments in Item 48, Office and Administrative Expenses.

The union must report most direct disbursements to MPC 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) MPC did not report the \$52,525 that was initially withdrawn for the purchase of gift cards and later redeposited.

Item 43 “Other Receipts” – Per LM-3 instructions enter all of your organization’s receipts other than those reported in Items 38 through 42, including proceeds from the sale of supplies, loans obtained, repayments of loans made, rents, and funds collected for transmittal to third parties.

Item 54 “Other Disbursements” – Per LM -3 instructions enter all disbursement made by your organization not reported in Items 45 through 53, including fees, fines, assessments, supplies or resale, repayments of loans obtained, transmittals of funds collected for third parties, educational and publicity expenses, withholding taxes, and payment for the account of affiliate and other third parties.

The union may explain in Item 56 how \$52,525 reported in Items 43 and 54 were funds withdrawn to purchase gift cards, but were then redeposited due to administrative error.

MPC must file an amended Form LM-3 for the fiscal year ended August 31, 2014 to correct the deficient items discussed above, which the union filed on September 15, 2015.

Other Issues

1. Officer’s Signatures on Checks

During the audit, Pat Modugno and Juan Castillo both advised that it is MPC’s practice to have only Modugno sign union checks. MPC Employees Representative Constitution, Articles 7, Section 5 states: “It shall be the duty of the Secretary to co-sign checks for the union in conjunction with the Treasurer or the President.” Article 8, Section 3 states: “It shall be the duty of the Treasurer to co-sign all union checks in conjunction with the Secretary or President.”

Having two officer’s co-sign each check is an effective internal control of union funds. Its purpose is to attest to the authenticity of a completed document already signed. OLMS recommends that MPC Representatives Union review its practices to comply with its constitution and improve internal control of union funds.

2. Financial Reports and Audit of Union Records.

MPC Constitution and Bylaws, Article 8, Section 4 states “It shall be the duty of the Treasurer to submit quarterly financial reports to the union officers and /or members, giving an account of all transactions and of the financial condition of the union.”

MPC Constitution and Bylaws, Article 8, Section 5 states “It shall be the duty of the Treasurer to submit, on an annual basis, the financial books, records, and statements of the union to an outside auditor for examination.”

Currently the union does not prepare quarterly reports that accounts for all transactions. Furthermore, the union does not submit financial records to an outside auditor for examination on an annual basis. OLMS recommends that MPC Representatives Union review its practices to comply with its constitution and improve internal control of union funds.

3. Removal of a Union Officer

MPC Constitution and Bylaws, Article 15, Section 1 states: “Any officer who fails to correctly represent the union membership shall be removed from office.” The Constitution and Bylaws does not provide a procedure by which to remove an elected official found guilty of serious misconduct.

Per the LMRDA, Section 401(h), labor organizations are required to have an adequate procedure to remove an elected official found guilty of serious misconduct. OLMS recommends the union amend its bylaws to align with Title IV provisions that incorporate a formal notice and hearing regarding officer misconduct as part of the union’s officer removal procedures.

I want to extend my personal appreciation to MPC Representative Union 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. Juan Castillo, President (electronic copy)
Mr. Mark Krupa, Secretary (electronic copy)