

U.S. Department of Labor

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August 14, 2008

Mr. Joseph Carfagno, Secretary
Musicians AFL-CIO
Local 78
3009 Burnet Avenue
Syracuse, NY 13206-2420

LM File Number 042-254

Case Number: [REDACTED]

Dear Mr. Carfagno:

This office has recently completed an audit of Musicians Local 78 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 August 13, 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 Local 78's 2007 records revealed the following recordkeeping violations:

1. General Reimbursed and Credit Card Expenses

Local 78 did not retain adequate documentation for reimbursed expenses and credit card expenses incurred by union officers totaling at least \$3,055.61. For example, reimbursement was made to union officers for travel expenses to attend the 2007 American Federation of Musicians Convention for which original receipts or invoices were not retained. Also, documentation was not retained for the purchase of a computer and computer equipment made with the union's credit card.

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. Failure to Record Receipts

Local 78 did not record in its receipts records income received from the sale of union hats, jackets and other items totaling at least \$122. 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.

Based on your assurance that Local 78 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 Local 78 for fiscal year ending December 31, 2007 was deficient in the following areas:

1. Disbursements to Officers

Local 78 did not include some reimbursements to officers totaling at least \$3,183.58 in the amounts reported Item 24 (All Officers and Disbursements to Officers). It appears the union erroneously reported these payments in Item 48 (Office and Administrative Expense).

The union must report most direct disbursements to Local 78 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).

2. Fixed Assets

Local 78 did not include the purchase of a computer and computer equipment totaling at least \$1,915.48 in the amounts reported in Item 52 (Purchase of Investments and Fixed Assets). It appears the union erroneously reported these amounts with the amounts reported in Item 48 (Office and Administrative Expense). Additionally, the fixed assets should be included in Item 29 (Fixed Assets). The LM-3 instructions require that the local report the total book value of all fixed assets at the end of the reporting period, such as land, buildings,

automobiles, and office furniture and equipment owned by your organization in Column B of Item 29.

3. 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 78 amended its constitution and bylaws in 2007, but did not file a copy with its LM report for that year. Local 78 has now filed a copy of its constitution and bylaws.

I am not requiring that Local 78 file an amended LM report for 2007 to correct the deficient items, but Local 78 has agreed to properly report the deficient items on all future reports it files with OLMS.

Other Issues

1. Signing Blank Checks

During the audit, you advised me that President Philip MacArthur and Treasurer Jon Garland sometimes sign blank checks. Your union's bylaws require that all checks be signed by two officers. The two signature requirement is an effective internal control of union funds. Its purpose is to attest to the authenticity of a completed document already signed. However, signing a blank check in advance does not attest to the authenticity of a completed check, and negates the purpose of the two signature requirement. OLMS recommends that Local 78 review these procedures to improve internal control of union funds.

2. Inventory of Fixed Assets

As discussed with you during the audit, it is recommended that Local 78 maintain an inventory list of its assets including each item, its location, serial number, purchase date, and cost. An inventory list will help you identify, account for, and determine the total value of your union's fixed assets.

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I want to extend my personal appreciation to Musicians Local 78 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: Philip MacArthur, President
Jon Garland, Treasurer