



April 15, 2011

Mr. John Solberg, President  
Graphic Communications, IBT, Local 379  
318 Terrace View W  
Mankato, MN 56001

Case Number: [REDACTED]  
LM Number: 026393

Dear Mr. Solberg:

This office has recently completed an audit of Graphic Communications, IBT, Local 379 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 Steve Kaiser on April 15, 2011, 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 379's 2009 and 2010 records revealed the following recordkeeping violations:

### 1. Expenses for Contract Negotiations

Local 379 did not retain adequate documentation for most expenses incurred while conducting contract negotiations with Perfecseal Company in 2009. The ledger shows that the union split the cost of a meeting room at the Holiday Inn with Perfecseal for two meetings. Two checks were issued to Perfecseal, which initially paid the full bill, to cover the union's half of the expense. However, the union failed to retain a bill for one of the disbursements in the amount of \$157.39. Also, slips of paper turned in by you and disbursements records indicate that you were reimbursed for \$320.55 for "expenses and meals for negotiations," but no receipts or invoices could be found in the union's records to support the expense reimbursements.

As noted above, labor organizations must retain original receipts, bills, and vouchers for all disbursements. The president and treasurer (or corresponding principal officers), who are required to sign your union's LM report, are responsible for properly maintaining union records.

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.

### 2. Lost Wages

Local 379 did not retain adequate documentation for lost wage reimbursement payments to you, Mr. Kaiser, or Executive Board Members Jim Pitman, John Brenner, and Kevin Waters totaling at least \$4,454. The lost wages were mostly incurred during the 2009 contract negotiations with Perfecseal. Records must be maintained in support of lost wage claims that identify each date lost wages were incurred, the number of hours lost on each date, the applicable rate of pay, and a description of the union business conducted. The audit found that Local 379, kept a slip of paper for each officer showing how many total hours were lost and the rate of pay, but did not list each date lost wages were incurred, the number of hours lost on each date, or a description of the union business conducted.

During the exit interview, I provided a sample of an expense voucher that Local 379 may use to satisfy this requirement and a copy of "*Compliance Tip – Lost Time Payments*" which can be found on the OLMS website. The sample expense voucher and compliance tip identify the type of information and documentation that the local must maintain for lost wages and other officer expenses.

### 3. Receipt Records

Local 379 did not record in its ledger interest earned on certificates of deposit (CDs) totaling at least \$401 in 2009 and \$366 in 2010. The bank statements show that interest is deposited

on each of the union's CD's annually. Receipts records must include an adequate identification of all money received. The records should show the date and amount received, and the source of the money.

#### 4. Receipt Dates not Recorded

Entries in Local 379's ledger sometimes reflected the date the checks were deposited, but not the date the money was actually received. For example, Mr. Kaiser indicated that the union does not hold membership meetings in the summer months of June, July, or August. Perfecseal still withholds dues from members' paychecks during those months and issues a check to the union each month. Dates on the dues checkoff reports and the checks from Perfecseal indicate that the checks were issued to the union each month. However, the ledger shows that those dues checks were not recorded on the books until September when they were deposited.

Receipts records must show the date of receipt. The date of receipt is required to verify, explain, or clarify amounts required to be reported in Statement B (Receipts and Disbursements) of the LM-3. The LM-3 instructions for Statement B state that receipts must be recorded when money is actually received, and disbursements must be recorded when money is actually paid out. Failure to record the date money was received could result in reporting some receipts for a different year than the one in which they were received.

Based on your assurance that Local 379 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 379 for the fiscal year ended December 31, 2009 was deficient in the following areas:

##### 1. Item 24 (Disbursements to Officers)

Local 379 did not include lost wage payments to officers totaling at least \$4,425 in the amounts reported in Column D (Gross Salary) of Item 24. Officers receive semi annual salaries ranging from \$180 to \$300 in addition to lost wages. Local 379 did report those salaries in Column D of Item 24, but did not report lost wages paid to you, Mr. Kaiser, or Mr. Pitman. It appears that some of the lost wages were erroneously included in the amounts reported in Column E (Allowances and Other Disbursements) for you and Mr. Kaiser. In the case of Mr. Pitman, nothing was reported next to his name. As noted in the LM-3 instructions, payments for gross salary of each officer and disbursements for lost wages should be reported in Column D.

Also, Local 379 did not report the name of Executive Board Member Kevin Waters and the total amounts of payments to him in Item 24. All persons who held office during the year must be reported in Item 24 regardless of whether they received any payments from the union.

## 2. Statement A (Cash Balances)

It appears that the cash figures reported in Item 25 are not the cash figures according to the union's books after reconciliation to the bank statements. No book balance was maintained for Local 379's CDs and the checking account balance in the ledger is not accurate. The ledger indicates that Local 379's beginning cash balance was \$19,491 on January 1, 2009. However, \$34,883 was reported in Item 25A (Start of the Reporting Period). The bank statements indicate that the local had \$35,322 in the bank on January 1, 2009. The instructions for Item 25 state that the union should obtain account balances from its books as reconciled to the balances shown on bank statements.

## 3. Dues and Interest Receipts

Local 379 underreported its receipts by approximately \$1,860. The ledger and duplicate receipts show that dues in the amount of \$17,338 were collected; however, the local reported \$15,538 in Item 38 (Dues). Further, the bank statements show that \$401 of interest was earned on CDs, but the local reported \$341 in Item 41 (Interest & Dividends).

## 4. Disbursements

Local 379 underreported its disbursements by approximately \$187. The ledger and bank statements show that Local 379 disbursed \$20,044. However, \$19,877 was reported in Item 55 (Total Disbursements).

Local 379 must file an amended Form LM-3 for the fiscal year ended December 31, 2009, to correct the deficient items discussed above. I provided you with a blank form and instructions, and advised you that the reporting forms and instructions are available on the OLMS website ([www.olms.dol.gov](http://www.olms.dol.gov)). The amended Form LM-3 should be submitted to this office at the above address as soon as possible, but not later than May 2, 2011. Before filing, review the report thoroughly to be sure it is complete, accurate, and signed properly with original signatures.

### Other Violation

#### Inadequate Bonding

The audit revealed a violation of LMRDA Section 502 (Bonding), which requires that union officers and employees be bonded for no less than 10 percent of the total funds those individuals or their predecessors handled during the preceding fiscal year.

Local 379's officers and employees are currently bonded for \$2,500, but they must be bonded for at least \$5,500. Local 379 should obtain adequate bonding coverage for its officers and employees immediately. Please provide proof of bonding coverage to this office as soon as possible, but not later than May 2, 2011.

Other Issue

Tax Withholdings

The audit revealed that Local 379 may not be properly following state or federal requirements for withholding of various taxes from payments to officers. While Local 379 itself may be exempt from income taxes, payments made by Local 379 to officers and employees are not exempt, except in certain circumstances. Mr. Kaiser advised that he's never withheld taxes from wages.

While this office has no authority to interpret the state or federal tax code, it is my understanding that all salary and supplemental payments are subject to the withholding of income, Social Security, and Medicare taxes and that Local 379 as an "employer" must also pay its share of Social Security and Medicare taxes. Local 379 may be liable for the Federal Unemployment Tax (FUTA) as well.

OLMS recommends that you contact the Minnesota Department of Revenue in St. Paul at (651) 282-9999, and the Internal Revenue Service (ask for "Circular E, Employer's Tax Guide," and Form 990, which Local 379 may be required to file).

I want to extend my personal appreciation to Graphic Communications, IBT, Local 379 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. Steve Kaiser, Secretary-Treasurer