

**U.S. Department of Labor**

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September 15, 2008

Mr. David Winters, Treasurer  
Musicians Local 153  
2102 Almaden Road, Suite 112  
San Jose, CA 95125

LM File Number: 025-902  
Case Number: [REDACTED]

Dear Mr. Winters:

This office has recently completed an audit of Musicians Local 153 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 Secretary David Borough on September 11, 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.

Reporting Violations

The audit disclosed violations 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 153 for fiscal year ending December 31, 2007 is deficient in the following areas:

1. Disbursements to officers

Local 153 did not include some reimbursements to officers totaling at least \$2,500 in Item 24 (All Officers and Disbursements to Officers).

The union must report most direct disbursements to Local 153 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. Unreported bank accounts

The audit revealed that the funds in the Alliance Credit Union certificate of deposit were not included in the LM-3 report. This omission caused beginning and ending cash to be under reported by approximately \$23,000. Although this certificate of deposit is not used for the union's operating funds and is only used to fund scholarships, it is controlled by the union and must be reported on the LM-3.

3. Failure to file constitution and 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. At the time of the audit, Local 153 had amended its constitution and bylaws, but had not yet filed a copy with the LM report. Local 153 has now filed a copy of its constitution and bylaws.

I am not requiring that Local 153 file an amended LM report for 2007 to correct the deficient items, but Local 153 has agreed to properly report the deficient items on all future reports it files with OLMS.

I want to extend my personal appreciation to Musicians Local 153 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,



Supervisory Investigator

cc: Mr. David Borough, Secretary  
Mr. Tony Clements, President