

U.S. Department of Labor

Employment Standards Administration
Office of Labor-Management Standards
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September 30, 2009

Robert Budens, President
Patent Office Professional Association
P.O. Box 25287
Alexandria, Virginia 22313

LM File Number: 500-009

Case Number: [REDACTED]

found.

Dear Mr. Budens:

This office has recently completed an audit of Patent Office Professional Association (POPA) 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 Treasurer Randall Meyers and you on September 30, 2009 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 POPA's 2008 records revealed the following recordkeeping violations:

1. Failure to Record Receipts

POPA did not record in its receipts records some cash receipts received during the fiscal year. For example, on January 7, 2008, a counter deposit of \$3,000.00 was made into the union's general checking account. There was no record as to the source or the reason for this receipt anywhere in the union's records. 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. Failure to Maintain Receipt Records

POPA did not maintain several employer check-off reports it received. All union records must be maintained.

3. Meal Expenses

POPA 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 POPA will retain adequate documentation in the future, OLMS will take no further enforcement action at this time regarding the above violations.

Reporting Violations

The CAP 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 POPA for fiscal year ending December 31, 2008, was deficient in the following areas:

1. Disbursements to Officers

POPA did not report the names of some officers and the total amounts of payments to them or on their behalf in Item 24 (All Officers and Disbursements to Officers). The union must report in Item 24 all persons who held office during the year, regardless of whether they received any payments from the union.

The union must report most direct disbursements to POPA 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. Disbursements to Employees

POPA did not properly report the total amount of payments to or on behalf of employees in Item 46 (To Employees). The union must report in Item 46 the net disbursements to all persons who were employed by the union during the year. For example, there were several payments to or on behalf of Ronald Stern during the fiscal year. The payments to or on behalf of Mr. Stern should be reported in Item 46 (To Employees).

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. POPA amended its

constitution and bylaws in 2008, but did not file a copy with its LM report for that year. POPA has now filed a copy of its constitution and bylaws.

I am not requiring that POPA file an amended LM report for 2008 to correct the deficient items, but POPA has agreed to properly report the deficient items on all future reports it files with OLMS.

Other Violation

The audit disclosed the following 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. POPA's officers are currently bonded for \$40,000, but they must be bonded for at least \$46,028. POPA should obtain adequate bonding coverage for its officers immediately. Please provide proof of bonding coverage to this office as soon as possible, but not later than October 30, 2009.

Other Issue

The audit disclosed the following other issue:

Pre-Signed Checks

During the audit, you advised that POPA officers occasionally sign blank checks. You stated that your policy is that all checks be signed by two union 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 POPA review these procedures to improve internal control of union funds.

Mr. Robert Budens
September 30, 2009
Page 5 of 5

I want to extend my personal appreciation to POPA 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: Randall Meyers, Treasurer