

U.S. Department of Labor

Office of Labor-Management Standards
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April 14, 2010

Mr. Rodney Dean, Business Manager
Plasterers & Cement Masons AFL-CIO
Local 78
311 Morgan Street
Knoxville, TN 37917

LM File Number 059-222
Case Number: [REDACTED]

Dear Mr. Dean:

This office has recently completed an audit of Plasterers & Cement Masons 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 President Herbert Brabson, Treasurer Robert Hoyle, and you on April 9, 2010, 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.

The CAP disclosed

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 2009 records revealed the following recordkeeping violations:

1. Failure to Record Receipts

Local 78 did not record in its receipts records deposits from banks for interest earned on certificates of deposits totaling at least \$134.54. For example, the union received a deposit totaling \$82.56 on one of its certificate of deposits, but did not record the interest in its receipt 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. Information not Recorded and Failure to Keep Meeting Minutes

During the audit, Mr. Dean advised OLMS that the membership authorized his salary at a local membership meeting, additionally; Mr. Brabson and Mr. Hoyle stated that the executive board authorized to give the current business manager a salary and the prior officer in that position had voluntarily declined a salary. Article 9, Section I of the Local 78's bylaws dated May 6, 2005 requires that the "executive board must keep accurate minutes of the transaction of business at Board meetings in a bound minute book..., which shall be read and approved at the next following Local Union membership meeting." Article 9, Section F states that "expenses that are not regularly recurring shall be approved by the membership and other officers." However, executive board and membership meeting minutes were not maintained by the local during the audit year. Minutes of all membership or executive board meetings must report any disbursement authorizations made at those meetings.

3. Lack of Salary Authorization

Local 78 did not maintain records to verify that the salaries reported in Item 24 (All Officer and Disbursements to Officers) of the LM-3 was the authorized amount and therefore was correctly reported. The union must keep a record, such as meeting minutes, to show the current salary authorized by the entity or individual in the union with the authority to establish salaries.

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 LM-3 filed by Local 78 for fiscal year ending December 31, 2008, was deficient in the following areas:

1. Cash Reconciliation

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. 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.

2. Per Capita Tax (LM-3)

Local 78 did not correctly report per capita taxes on its LM-3 report for fiscal year ending December 31, 2008 report. The union erroneously reported per capita taxes under receipts in Item 39 (Per Capita Tax) and under disbursements in Item 47 (Per Capita Tax). Item 39 (Per Capita Tax) should be "zero" if the union did not collect per capita taxes on behalf of another local or an affiliate as an intermediate or parent body organization. Local 78 does not directly collect per capita taxes from another local or affiliate. Therefore, per capita taxes should only be reported in Item 47 (Per Capita Tax) of the LM-3 report.

Local 78 must file an amended Form LM-3 for fiscal year ending 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). The amended Form LM-3 should be submitted

to this office at the above address as soon as possible, but not later than **April 26, 2010**. Before filing, review the report thoroughly to be sure it is complete, accurate, and signed properly with original signatures.

Other Violations

The audit disclosed the following other violation(s):

1. 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 78's officers and employees are currently bonded for \$15,000, but they must be bonded for at least \$21,182.22. Local 78 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 **April 26, 2010**.

4. Loans to Officer

The business manager received advance salary payments in excess of \$6,933.32 during the audit year. Since the officer received payment for duties he has not performed, this is considered a loan per the LMRDA. Section 503(a) of the LMRDA states that no labor organization shall make directly or indirectly any loan or loans to any officer or employee in excess of \$2,000.

Other Issue

Signing Blank Checks

During the audit, you advised that Robert Hoyle signs blank checks. Your union's bylaws require that all checks be signed by the president and treasurer. 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

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recommends that Local 78 review these procedures to improve internal control of union funds.

I want to extend my personal appreciation to Plasterers & Cement Masons 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: Herbert Brabson, President