

**U.S. Department of Labor**

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March 30, 2010

Mr. Brian Whitty, President  
Musicians Local 166  
4615 Camden Road  
Madison, WI 53716

LM File Number: 012-275  
Case Number: [REDACTED]

Dear Mr. Whitty:

This office has recently completed an audit of Musicians Local 166 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 Liz Marshall on March 22, 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.

#### 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 166's 2008 records revealed the following recordkeeping violations:

1. General Reimbursed and Credit Card Expenses/Other Disbursements

Local 166 did not retain adequate documentation for reimbursed expenses and credit card expenses incurred by union officers and employees totaling at least \$500. For example, credit card purchases for postage as well as reimbursed expenses for supplies did not have any supporting documentation in the records.

In addition, adequate documentation was not retained for over \$1,000 in other disbursements to third party vendors such as TDS Metrocom, U.S. Cellular, and Pick N Save.

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. Receipt Dates not Recorded and Disbursement Dates Inaccurate

Receipt entries recorded in Local 166's computer software program used to track member dues payments (referred to as "In Tune") as well as deposit entries recorded in QuickBooks accounting software reflect the date the union deposited money, but not the date money was received. Additionally, there were several disbursements dates that were inaccurately recorded in the QuickBooks general ledger. For example, check # [REDACTED] to "AFM IU" in the amount of \$2,066.17 was recorded in QuickBooks with a check date of September 30, 2007; however, the cancelled check revealed the check was actually dated March 30, 2008.

Union receipts records must show the date of receipt and disbursement records must show the actual date of disbursement. The dates of receipts and disbursements are 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 the labor organization must record receipts when it actually receives money and disbursements when it actually pays out money. Failure to record the date money

was received or disbursed could result in the union reporting some receipts or disbursements for a different year than when it actually received or disbursed them.

### 3. Lack of Salary Authorization

During 2008, former Secretary-Treasurer [REDACTED] received over \$5,000 in salary payments from Local 166; however, Local 166 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 166 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 166 for fiscal year ending December 31, 2008, was deficient in the following areas:

#### 1. Dues (Item 38)

The audit revealed Local 166 received dues payments from members totaling at least \$17,000, and working dues totaling at least \$4,000 from the Wisconsin Chamber Orchestra. However, the total amount reported in Item 38 is \$17,490. It appears that some working dues were not included in the total amount reported in Item 38, and that those payments were not reported anywhere else on the report.

Item 38 must include the total dues received by your organization, including dues received directly from members, dues received through a check off arrangement, such as those working dues remitted to Local 166 by the Wisconsin Chamber Orchestra, and any dues that are transmitted to your organization by a parent body or other affiliate.

#### 2. Disbursements to Officers and Employees

Local 166 reported salary payments totaling more than \$200 that were disbursed in 2009 in the amounts reported in Item 24 on the LM-3 report for 2008. Additional salary payments

totaling at least \$200 to current Secretary-Treasurer and former office Assistant [REDACTED] [REDACTED] disbursed in 2009 were also included in amounts reported in Item 46 (To Employees). Although the audit revealed that these payments appear to be for work completed during the 2008 fiscal year, the checks were recorded in Quickbooks in January of 2009 and therefore should be reported on the local's LM-3 report for 2009.

Only amounts that were disbursed in 2008 should be reported on the LM-3 report for that fiscal year.

### 3. Per Capita Tax (Item 47)

A per capita tax payment totaling more than \$2,000 was not included in the amount reported in Item 47. As noted above, check # [REDACTED] payable to AFM IU in an amount of \$2,066.17 was recorded in the general ledger as disbursed in September of 2007, however, the cancelled check revealed that the check was actually disbursed and negotiated for payment in March of 2008. Including check # [REDACTED] Local 166 disbursed over \$10,800 to the AFM IU during 2008. However, the total amount reported in Item 47 is \$8,290. It does not appear that this check was reported anywhere else on the report.

### 4. Cash Reconciliation

A review of Local 166's bank statements and the general ledger balance as of January 1, 2008 revealed that the cash at the start of the reporting period (Item 25A) was \$10,219; however, Local 166 reported \$9,666 in Item 25(A). 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.

Further, failure to report receipts and disbursements in the year that they were actually received or disbursed, as described above, will affect the overall cash reconciliation of your organization's report.

### 5. Failure to File By-laws

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 166 amended its constitution and bylaws in 2005, but did not file a copy with its LM report for that year.

Local 166 has now filed a copy of its constitution and bylaws.

Local 166 must file an amended Form LM-3 for fiscal year ending December 31, 2008, 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 April 20, 2010. Before filing, review the report thoroughly to be sure it is complete, accurate, and signed properly with original signatures.

#### Other Issue

##### Single Signature Requirement for Disbursements

During the opening interview, Ms. Marshall advised that Local 166 disbursements require only one signature. However, Article III, sections 1(c) and 3(b) of the Local 166 by-laws require both the president and the secretary-treasurer sign all checks or other orders for payment of money.

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. OLMS recommends that Local 166 review these procedures to improve internal control of union funds and comply with the provisions for disbursements as identified in the by-laws. I want to extend my personal appreciation to Musicians Local 166 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: Liz Marshall, Secretary Treasurer