



September 15, 2011

Mr. Victor Badorian, Treasurer
Niagara Hooker Employees Union
1625 Buffalo Avenue
Suite Lower E
Niagara Falls, NY 14303

Case Number: [REDACTED]
LM Number: 053-440

Dear Mr. Badorian:

This office has recently completed an audit of Niagara Hooker Employees Union (NHEU) 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 Vincent Ferlito, Vice President Mark Justiana, Secretary Tony Venute, and you on September 13, 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 NHEU's 2011 records revealed the following recordkeeping violations:

1. General Disbursements/ Meal Purchases

The Niagara Hooker Employees Union did not retain adequate documentation for a few general disbursements from the union's account. For example, generic receipts were retained from Joey's Pizza and Michael's Restaurant which were not sufficiently descriptive.

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.

As 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. Lost Wages

The Niagara Hooker Employees Union did not retain adequate documentation for lost wage reimbursement payments to union officers and employees on a few occasions. The union must maintain records 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 OLMS audit found that the NHEU did not always include the date in which the loss occurred.

During the exit interview, I provided a compliance tip sheet, *Union Lost Time Payments*. In the sheet, a sample voucher is included which identifies the type of information and documentation that the local must maintain for lost wages and other officer expenses.

3. Receipt Dates/Source not Recorded

Receipt records of the Niagara Hooker Employees Union reflected the date the union deposited money, but not the date money was received. Union 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 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 could result in the union reporting some receipts for a different year than when it actually received them.

Additionally, the union did not always record in the receipts records the source of the receipt, especially those receipts other than employer-deducted dues. Receipts records must identify the date, amount, and source of all receipts.

Based on your assurance that the NHEU will retain adequate documentation in the future, OLMS will take no further enforcement action at this time regarding the above violations.

Reporting Violation

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 the Niagara Hooker Employees Union for the fiscal year ended March 31, 2011 was deficient in the following area:

Disbursements to Officers and Employees (LM-3)

The Niagara Hooker Employees Union did not include some reimbursements to officers totaling at least \$224 in the amounts reported Item 24 (All Officers and Disbursements to Officers). It appears the union erroneously reported these payments in Item 54 (Other Disbursements). These amounts were for meals indirectly reimbursed to officers.

Additionally, amounts were reported in Column E (Allowances and Other Disbursements) of Item 24 next to officers' names for expenses paid to representatives. Representative monthly expenses should be reported in Item 46 (To Employees).

The union must report most direct disbursements to union officers and employees and some indirect disbursements made on behalf of its officers and employees in Item 24 and Item 46 respectively. A "direct disbursement" to an officer or employee is a payment made to them 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 or employee 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).

I am not requiring that the Niagara Hooker Employees Union file an amended LM report for 2011 to correct the deficient item, but the union has agreed to properly report the deficient item on all future reports it files with OLMS.

I want to extend my personal appreciation to Niagara Hooker Employees Union 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. Vincent Ferlito, President
Mr. Mark Justiana, Vice President
Mr. Tony Venute, Secretary