



August 7, 2017

Mr. Scott Cook, President
Painters AFL-CIO Local 123

Case Number: 350-6010426 [REDACTED]
LM Number: 543936

Dear Mr. Cook:

This office has recently completed an audit of Painters AFL-CIO Local 123 (Local 123) 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, Financial Secretary Jerry Klein, Business Representative [REDACTED], and Business Representative [REDACTED] on July 31, 2017, 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 123's 2016 records revealed the following recordkeeping violations:

1. Disbursements

Local 123 did not retain adequate documentation for disbursements incurred by the union totaling at least \$113,055, the majority of which being per capita payments. For example, no invoices were maintained in the union records for debit card charges of at least \$3,178.60. Further, Local 123 did not maintain invoices or correspondence related to per capita payments to the Cincinnati Building Trades and ACT Ohio. Lastly, no documentation was retained in the records related to the IUPAT per capital taxes paid.

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. Failure to Record Receipts

Local 123 did not record receipts. Some dues checkoff checks received by Local 123 contained dues paid on behalf of members of other locals. Local 123 does not record any information upon the receipt of funds. Rather, Local 123 enters its members' dues received in the Integrate Membership System (IMSe). Local 123 received at least \$12,885.29 in checkoff dues for members of other locals which were not recorded upon receipt. 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.

3. Receipt Dates not Recorded

As noted previously, Local 123 does not record receipts in a cash receipts journal. In addition, the dues payment dates generated by IMSe, represent the dates the entries were processed by the system. 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.

4. Information not Recorded in Meeting Minutes

During the audit, you advised OLMS that all disbursements must be approved by the membership. Article IX of the bylaws proscribes the compensation paid to offices and delegates. Article XIII provides the funds and property of the local may only be used for such purposes as are specified in the International Constitution, the District Council Bylaws and as approved by the a majority of the members present at a meeting. The meeting minutes did not show whether the motion passed or failed with regard to at least \$715 in disbursements to attend labor organization dinners and the purchase of a banner for St

Anne's. In addition, although the meeting minutes contain a section entitled "Communications and Bills Read", the meeting minutes did not include any detail. Minutes of all membership or executive board meetings must report any disbursement authorizations made at those meetings.

5. Voided Checks

Local 123 did not retain the ten voided checks marked as void in the cash disbursements journal. Although these checks were not processed for payment, the voided checks should be maintained with the union's financial records.

Based on your assurance that Local 123 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 123 for the fiscal year ended December 31, 2016 was deficient in the following areas:

1. Disbursements to Officers

Local 123 did not include payments to officers totaling at least \$252 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). Local 123 incorrectly added the amounts originally on Item 24, leaving out an officer's compensation totaling \$1,265. It appears the union erroneously included this amount in Item 54 (Other Disbursements).

The union must report most direct disbursements to Local 123 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. Cash Reconciliation

It appears that the cash figures reported in Item 25 (Cash) are not the figures according to Local 123'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.

3. Dues Received on Behalf of Other Locals and Paid to Other Locals

Local 123 reported dues received in the checkoff for other locals totaling \$12,885.29 in Item 38 (Dues). The instructions for Item 38 state that dues collected on an affiliate's behalf must be reported in Item 43 (Other Receipts). Similarly, Local 123 reported the dues paid to other locals totaling \$12,885.29 in Item 47 (Per Capita Tax). However, the payments to the locals should be reported in Item 54 (Other Disbursements).

4. 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. Local 123 amended its bylaws in 2015, but did not file a copy with its LM report for that year. During the audit, Local 123 provided a copy of the bylaws to OLMS.

I am not requiring that Local 123 file an amended LM report for 2016 to correct the deficient items, but Local 123 has agreed to properly report the deficient items on all future reports it files with OLMS.

Other Issues

1. Duplicate Receipts

Retired members and members not on checkoff pay dues directly to Local 123. Mr. Klein records dues payments in IMSe which generates a receipt number, but he does not always issue receipts to the dues payers. OLMS recommends that Local 123 use a duplicate receipt system where the union issues original pre-numbered receipts to all members who make payments directly to the union and retains copies of those receipts. A duplicate receipt system is an effective internal control because it ensures that a record is created of income which is not otherwise easily verifiable. If more than one duplicate receipt book is in use, the union should maintain a log to identify each book, the series of receipt numbers in each book, and to whom each book is assigned.

2. Signatory Authority

During the exit interview, I noted that, as of June 26, 2017, neither you nor Vice President Ron Fussnecker had signed the signature card for the union checking account. During the exit interview, you informed me that after becoming aware the previous signature cards

signed by you and Mr. Fussnecker were not forwarded to the bank branch responsible for the account, you both signed the signature card on file with the bank.

3. Segregation of Duties Related to Receipts and Deposits

The audit revealed Mr. Klein receives almost all of the dues payments and makes all deposits to the union checking account. During the exit interview, I discussed the financial integrity protections provided by segregating the duties with regard to the receipt and subsequent deposit of funds, as also suggested in the union's constitution.

During the exit interview, Messrs. Cook and Klein agreed to pursue the use of a duplicate receipts book and to establish procedures by which Mr. Klein is not solely responsible for the receipt, recording, and deposit of funds.

I want to extend my personal appreciation to Local 123 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,

[REDACTED]

Investigator

cc: Mr. Jerry Klein, Financial Secretary
[REDACTED], Treasurer