



May 12, 2017

Mr. Patrick Davidson, President
Painters Local 1399
8250 Ronson Rd.
San Diego, CA 92111

Case Number: 520-6010237 [REDACTED]
LM Number: 002250

Dear Mr. Davidson:

This office has recently completed an audit of Painters Local 1399 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 and [REDACTED] on May 11, 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 1399's 2016 records revealed the following recordkeeping violations:

1. Failure to Record Receipts

Local 1399 did not record in its receipts records some income received from banks for interest earned on certificates of deposit totaling at least \$200. For example, the interest paid on one of the union's CD accounts was not recorded for the first six months of 2016. 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. Asset Inventory

Local 1399 did not maintain an up to date inventory of computers, furniture, and other equipment of value. The union must report the value of any union property on hand at the beginning and end of each year in Item 29 of the LM-3. The union must retain an inventory or similar record of property on hand to verify, clarify, and explain the information that must be reported in Item 29.

During the course of the audit, Local 1399 updated their inventory list to reflect their current assets.

Based on your assurance that Local 1399 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 1399 for the fiscal year ended June 30, 2016, was deficient in the following areas:

1. 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 1399 amended its constitution and bylaws in 2010, but did not file a copy with its LM report for that year.

Local 1399 has now filed a copy of its Bylaws.

2. Acquire/Dispose of Property

Item 13 [LM-3] (During the reporting period did your organization acquire or dispose of any assets in any manner other than by purchase or sale?) should have been answered, "Yes," because the union gave away shirts totaling more than \$1,000 during the year. The union must identify the type and value of any property received or given away in the additional information section of the LM report along with the identity of the recipient(s) or donor(s) of such property. The union does not have to itemize every recipient of such giveaways by name. The union can describe the recipients by broad categories if appropriate such as "members" or "new retirees." In addition, the union must report the cost, book value, and trade-in allowance for assets that it traded in.

3. Disbursements to Employees

Local 1399 did not include some reimbursements to employees totaling at least \$56,000 in the amounts reported in Item 46 (To Employees). It appears the union erroneously reported these payments in Item 48 (Office and Administrative Expense). The union must report most direct disbursements to Local 1399 employees and some indirect disbursements made on behalf of its employees in Item 46. A "direct disbursement" to an employee is a payment made to an employee in the form of cash, property, goods, services, or other things of value. See the instructions for Item 46 for a discussion of certain direct disbursements to employees that do not have to be reported in Item 46. An "indirect disbursement" to an 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 employee. 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 employee traveling on union business should be reported in Item 48 (Office and Administrative Expense).

4. Statement B (Total Receipts)

The total receipts figure reported in Item 44 is not the correct amount according to Local 1399's books. The total receipts as of June 30, 2016, as reconciled to the bank statements, were \$250,797.73; however, the total receipts reported in Statement B, Item 44 of the LM-3 report were \$240,216. This discrepancy is due to a deposit of \$10,044.27 which was listed in the union's books as having been made on June 30, 2015 but which did not appear on the bank statement until July 1, 2015. Additionally, over \$200 in interest was not listed as receipts on the LM report due to Local 1399 not receiving the bank statements for the U.S. Bank CD for calendar year 2016 until the time of the audit.

I am not requiring that Local 1399 file an amended LM report for 2016 to correct the deficient items, but Local 1399 has agreed to properly report the deficient items on all future reports it files with OLMS.

I want to extend my personal appreciation to Painters Local 1399 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,

A solid black rectangular box used to redact the signature of the investigator.

Investigator

cc: Mr. Kyle Butts, Financial Secretary