

U.S. Department of Labor

Employment Standards Administration
Office of Labor-Management Standards
Milwaukee District Office
517 East Wisconsin Avenue, Room 737
Milwaukee, WI 53202-4504
(414)297-1501 Fax: (414)297-1685



January 4, 2007

Mr. Michael Glaser, President
Machinists District Lodge 10
1650 South 38th Street
Milwaukee, WI 53215

Re: Case Number [REDACTED]

Dear Mr. Glaser:

This office has recently completed an audit of Machinists District Lodge 10 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, President Michael Glaser, Administrative Assistant Denise Werlein, International Auditor Rick Fischer, and Director Mike Hornby on December 6, 2006, 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 adequate records be maintained for at least 5 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, all records used or received in the course of union business must be retained. This includes, in the case of disbursements, not only the retention of original bills, invoices, receipts, and vouchers, but also adequate additional documentation, if necessary, 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 note can be written on it providing the additional information. An exception may be made only in those cases where 1) other equally descriptive documentation has been maintained, and 2) there is evidence of actual oversight and control over disbursements.

In the case of receipts, the date, amount, purpose, and source of all money received by the union must be recorded in at least one union record. Bank records must also be retained for all accounts.

The audit of District Lodge 10's 2005 records revealed the following recordkeeping violations:

1. Officer and Employee Expenses

The president and treasurer of your union, who are required to sign your union's LM report, are responsible for the proper maintenance of union records. In the case of District Lodge 10, the audit revealed that adequate documentation was not retained for reimbursed expenses.

Adequate supporting documentation was not maintained for check [REDACTED] to Director Michael Hornby for lodging, check [REDACTED] to Business Manager Steven Nickel for lodging and mileage, and check [REDACTED] to Mr. Nickel that included reimbursement for a meal expense.

The date, amount, and business purpose of every expense must be recorded on at least one union record. In addition, the names of individuals present for meal expenses and the locations (names of restaurants) where meal expenses were incurred must be recorded.

2. Mileage Expenses

District Lodge 10 who used their personal vehicles for union business failed to maintain mileage logs documenting the business use of their personal vehicles. In the case of reimbursed mileage expenses for personal vehicles used for business travel, records must be maintained which identify the date of travel, locations traveled to and from, number of miles driven, and the business purpose of each use.

District Lodge 10 failed to maintain documentation identifying the number of miles, the mileage rate, and the union purpose of travel expenses reimbursed to Secretary-Treasurer Collins with checks [REDACTED] and [REDACTED] and to Business Representative Steven Nickel with check [REDACTED]

In the case of reimbursed mileage expenses for personal vehicles used for business travel, records must be maintained which identify the date of travel, locations traveled to and from, number of miles driven, and the business purpose of each use.

3. Disposition of Property

District Lodge 10 failed to retain an inventory or similar record of prizes totaling almost \$1,500 that were purchased and given away at the annual golf outing.

Records must be retained which account for all union property. The detail of records required to be maintained for items given away is somewhat dependent upon the manner in which the property is distributed. Most of the prizes given away at the golf outing are of significant value. The type and approximate value of each prize, along with the identity of the recipient, must be identified in some union record.

As agreed, provided that District Lodge 10 maintains adequate documentation as discussed above in the future, no additional enforcement action will be taken regarding these violations.

Reporting Violations

The CAP 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-2 filed by District Lodge 10 for fiscal year ending December 31, 2005, was deficient in the following areas:

1. Disposition of Property

Item 15 (Acquire or dispose of any assets in any manner other than by purchase or sale) was answered, "Yes"; however, no additional information was provided regarding the acquirement or disposal of assets.

During the course of the audit, Business Representative Steven Nickel confirmed that District Lodge 10 did purchase items for the golf outing that was held in August of 2005. These items were given away as prizes at the golf outing.

The type and value of any property received or given away must be identified in the additional information section of the LM report along with the identity of the recipient(s) or donor(s) of such property.

2. Failure to File Bylaws

The CAP 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 constitution or bylaw changes are made. District Lodge 10 amended its constitution and bylaws on June 1, 2005, but a copy was not filed with its LM report for that year.

A copy of District Lodge 10's constitution and bylaws has now been filed.

I am not requiring that District Lodge 10 file an amended LM report for 2005 to correct the deficient items, but as agreed, District 10 will properly report the deficient items on all future reports filed with this agency.

Other Violations

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 handled by those individuals or their predecessors during the preceding fiscal year. District Lodge 10's officers and employees were bonded for \$50,000, but they must be bonded for at least \$323,500.

Adequate bonding coverage was obtained and documentation provided during the audit. No further enforcement action will be taken.

Other Issues

1. During the audit, Secretary-Treasurer Collins and International Auditor Rick Fischer advised that it is District Lodge 10's practice for Administrative Assistant Denise Werlein to prepare all the lodge's checks and stamp your signature and the signature of Secretary-Treasurer Collins on all union checks. Article III, Section 4 of District Lodge 10's bylaws requires that checks be signed by the president and treasurer. The two signature requirement is an effective internal control of union

funds. The purpose of the first signature is to attest to the authenticity of a completed document. The purpose of the second signature requirement is to attest to the authenticity of a completed document that is already signed. However, the use of a signature stamp for both signers by the administrative assistant does not attest to the authenticity of the completed check, and completely circumvents and undermines the purpose of the two signature requirement. I strongly recommend that District Lodge 10 change these procedures to improve internal control of union funds.

2. During the audit, Secretary-Treasurer Collins and Administrative Assistant Werlein advised that District Lodge 10 does not issue receipts for money paid directly by members. We suggest that unions use a duplicate receipt system where pre-numbered receipts are issued to all members who make payments directly to the union and copies are retained by the union. A duplicate receipt system is an effective internal control over union receipts because it ensures that a record is created of income the receipt of which is not otherwise easily verifiable. If more than one duplicate receipt book is in use, a log should be maintained to identify each book, the series of receipt numbers in each book, and to whom each book is assigned.
3. The audit revealed that District Lodge 10 does not process the compensation to part-time officers and lost time payments to members through its payroll system. No payroll taxes are being withheld and therefore not matched by District Lodge 10. I understand that the District Lodge prepares and files IRS Form 1099 to report to the federal government any compensation over \$600 paid to part-time officers or employees of the union. This compensation is generally included on the personal tax return as self-employment and requires the individual to pay both portions of social security and Medicare payroll taxes.

It appears that District Lodge 10 may not be following state or federal requirements for withholding of various taxes from payments to part-time officers and employees of the union. While the district lodge itself may be exempt from income taxes, payments made by District Lodge 10 to officers and employees are not exempt, except in certain circumstances. While this office has no authority to interpret the state or federal tax code, it is my understanding that all salary and supplemental payments to part-time officers, including lost time payments, are subject to the withholding of income, Social Security, and Medicare taxes and that District Lodge 10 as an employer must also pay its share of Social Security and Medicare taxes.

District Lodge 10 may also be liable for the Federal Unemployment Tax (FUTA) for these individuals as well.

I recommend that you contact the Wisconsin Department of Revenue in Madison at (608) 266-2776 (ask for the publication "Wisconsin Employer's Withholding Tax Guide"), and the Internal Revenue Service (ask for "Circular E, Employer's Tax Guide" and Form 990). I also suggest that you determine District Lodge 10's requirements for part-time officers and employees receiving lost time, if any, under the Wisconsin Worker's Compensation Act by contacting the Wisconsin Dept. of Industry, Labor and Human Relations (DILHR) at its Worker's Compensation Division in Madison at (608) 266-0416. You may also consider contacting your International representative or another local for further assistance regarding tax reporting requirements.

4. The audit revealed that during the fiscal year ending December 31, 2005, several business agents carried over vacation they had accrued in fiscal year ending December 31, 2004. Article IV, Section 3 of the lodge's by-laws prohibits the accumulation or extension of vacation beyond the fiscal year without approval from the executive board. There was no discussion found in any executive board meeting minutes or other document that would suggest that approval for this vacation carry-over was authorized by the board. Mr. Hornby stated he spoke with several board members about the vacation carryover and that it was authorized verbally. However, the lodge did not record this authorization in any union record. I highly recommend that any discussion documenting authorization for union disbursements or other activities take place during a meeting. A record of the discussion should be kept in the meeting minutes.
5. The audit revealed that District Lodge 10 has four certificates of deposits held at four banking institutions totaling \$329,828.90. As of December 31, 2005, the balance of the CD held at Associated Bank was \$104,714.87. As of December 31, 2005, the balance of the CD held at Maritime Savings Bank was \$104,997.47. Each of these CDs exceeded the \$100,000 Federal Deposit Insurance Corporation's (FDIC) insured limit. While the principal value of each of the CDs remain at or below the \$100,000 insured limit, the interest income that is rolled over into these accounts result in uninsured deposits. District Lodge 10 may want to consider depositing funds in excess of \$100,000 at another banking institution where all funds on deposit will be insured. Additional information regarding the FDIC requirements and regulations can be found at <http://www.fdic.gov>.

Mr. Michael Glaser
January 4, 2007
Page 7 of 7

I want to extend my personal appreciation to 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 are passed on to future officers. If we can provide any additional assistance, please do not hesitate to call.

Sincerely,

[REDACTED]

Investigator

cc: Ivan Collins, Secretary-Treasurer
Michael Hornby, Director
Rick Fischer, International Union Auditor
LM 009-340