

U.S. Department of Labor

Office of Labor-Management Standards
Cleveland District Office
1240 East Ninth Street
Room 831
Cleveland, OH 44199
(216)357-5455 Fax: (216)357-5425



January 29, 2010

Mr. Joseph Hurst , President
Malco Employees Independent Union
3402 Lullaby Drive
Clinton, OH 44216

LM File Number 508-755
Case Number: [REDACTED]

Dear Mr. Hurst:

This office has recently completed an audit of Malco Employees Independent Union 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 Treasurer Deborah Page on January 6, 2009, 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 Malco Employees Independent Union records for fiscal year ending 03/31/09 revealed the following recordkeeping violations:

1. Lost Wages

Malco Employees Independent Union did not retain adequate documentation for lost wage reimbursement payments to officers and members totaling at least \$2,000. 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 Malco Employees Independent Union did not keep such records.

2. Lack of Salary Authorization

Malco Employees Independent Union 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 Malco Employees Independent Union 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 Malco Employees Independent Union for fiscal year ending March 31, 2009 was deficient in the following areas:

1. Disbursements to Officers

Malco Employees Independent Union did not include some reimbursements to officers totaling at least \$750 in the amounts reported Item 24 (All Officers and Disbursements to Officers). It appears the union erroneously did not report these payments in the LM-3 Report although they were correctly recorded in the union's disbursement journal.

The union must report most direct disbursements to Malco Employees Independent Union 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 are not the cash figures according to the union'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.

Malco Employees Independent Union must file an amended Form LM-3 for fiscal year ending March 31, 2009, 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). The amended Form LM-3 should be submitted to this office at the above address as soon as possible, but not later than February 12, 2010. Before filing, review the report thoroughly to be sure it is complete, accurate, and signed properly with original signatures.

Other Violations

Inadequate Bonding

The audit revealed a violation of LMRDA Section 502 (Bonding), which requires that a union not be self-insured, in whole, or part. The bond certificate for Malco Employees Independent Union indicated that the policy included a \$500 deductible. A bond may not have a deductible as that is a form of self-insurance. This provision also requires that union officers and employees be bonded for no less than 10% of the total funds those individuals or their predecessors handled during the preceding fiscal year. Officers and employees of Malco Employees Independent Union are currently bonded for \$4,000, which is adequate coverage.

Malco Employees Independent Union should obtain an adequate bonding policy without a deductible immediately. Please provide proof of bonding coverage to this office as soon as possible, but not later than February 12, 2010.

Other Issues

Signing Blank Checks

During the audit, you advised that you sign blank checks. Your union's bylaws require that all checks be have two signatures. 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. However, signing a blank check in advance does not attest to the authenticity of a completed check, and negates the purpose of the two signature requirement. OLMS recommends that Malco Employees Independent Union review these procedures to improve internal control of union funds.

Mr. Joseph Hurst
January 29, 2010
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I want to extend my personal appreciation to Malco Employees Independent 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: Deborah Page, Treasurer