

U.S. Department of Labor

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September 24, 2008

Ms. Jana Soto-Reeves, President
Canyon Manor Employees Assn
655 Canyon Rd
Novato, CA 94947

LM File Number: 513-847
Case Number: [REDACTED]

Dear Ms. Soto-Reeves:

This office has recently completed an audit of Canyon Manor Employees Association (CMEA) 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, Janice Fujimoto, Cynthia Collins, and Lisa Elrod on September 23, 2008, 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 CMEA's 2007 records revealed the following recordkeeping violations:

1. Meal Expenses

CMEA's records of meal expenses did not always include written explanations of union business conducted or the names and titles of the persons incurring the restaurant charges. For example, the union funds an annual "transition dinner" for the incoming newly elected officers. Union records did not include the names of the dinner attendees. 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.

2. Professional Fees

The union did not retain adequate documentation for professional fees. For example, the union attorney did not provide documented invoices itemizing legal services provided.

As previously 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.

Based on your assurance that CMEA 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 CMEA for fiscal year ending June 30, 2007, was deficient in the following areas:

1. Disbursements to Officers

CMEA did not report the names of some officers and the total amounts of payments to them or on their behalf in Item 24 (All Officers and Disbursements to Officers). The union must report in Item 24 all persons who held office during the year, regardless of whether they received any payments from the union.

In Item 24, the union failed to report that Jeannine Burchette served as vice-president during the reporting period, as well as any disbursements made to her or on her behalf during that period.

The union must report most direct disbursements to CMEA 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. 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. CMEA amended its constitution and bylaws in 2006, but did not file a copy with its LM report for that year.

CMEA has now filed a copy of its constitution and bylaws.

3. Dues and Fees

CMEA did not properly report the dues and fees established by the union in Item 23 of the LM-3. The LM-3 report for fiscal year ending June 30, 2007, identifies the union's dues for regular members as ".15 of wage per month." During the opening interview the union officers confirmed the union dues for regular members to be 1.182 percent of wages per month as stated CMEA's bylaws.

I am not requiring that CMEA file an amended LM report for 2007 to correct the deficient items, but CMEA has agreed to properly report the deficient items on all future reports it files with OLMS.

Other Violations

The audit disclosed the following other violations:

1. Inadequate Bonding

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 those individuals or their predecessors handled during the preceding fiscal year.

The audit revealed that CMEA's officers were not bonded for the minimum amount required at the time of the audit. However, you indicated the union has obtained adequate bonding coverage and will provided evidence of this to OLMS. Contingent upon receipt of proof of adequate bonding coverage, OLMS will take no further enforcement action regarding this issue.

2. Failure to Follow Bylaws

The audit revealed that Article V of the union's bylaws states, the board of directors "...shall have prepared and shall approve a budge of estimated income and expenditures to implement the operations and programs of CMEA for the succeeding fiscal year." During the exit interview the officers confirmed the union does not follow this practice.

Article VI of the union's bylaws further state that the treasurer "...shall not be a signatory to any indebtedness." The union bank records show the treasurer as a consistent signatory on all union expenses. During the exit interview this practice was confirmed with the union's officers.

OLMS recommends that CMEA review its bylaws and practices, and make adjustments to ensure financial practices are aligned with the requirements set forth in the union bylaws.

I want to extend my personal appreciation to Canyon Manor Employees Assn 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: Janice Fujimoto, Treasurer