

**U.S. Department of Labor**

Employment Standards Administration  
Office of Labor-Management Standards  
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January 16, 2008

Mr. Dennis Nagy, Secretary-Treasurer  
Independent Cryogenics Workers'  
P.O. Box 615  
Bethlehem, PA 18017

LM File Number 538-195  
Case Number: [REDACTED]

Dear Mr. Nagy:

This office has recently completed an audit of Independent Cryogenics Workers' 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 Michael Tout and you on January 15, 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 records revealed the following recordkeeping violations:

1. Failure to Maintain Meeting Minutes

According to Article VI of the Constitution and Bylaws of the Independent Cryogenics Workers' Association revised November 4, 2004, the union is to have union meetings at least bi-monthly. In addition, your union's bylaws state a specific order to business that is to be followed at each meeting among other union meeting guidelines. The union failed to maintain meeting minutes to verify that these procedures are being followed. Maintaining meeting minutes is necessary in order to prove membership approval of the union's expenditures. The following union expenses should have been recorded in meeting minutes: the union made a \$200 donation to the Cathedral School; throughout the audit year, the union gave away at least \$325 in door prizes to union members attending meetings; and the union paid you \$300 for completing your duties as secretary-treasurer.

2. Failure to Maintain Supporting Documentation for Disbursements

The union maintained the majority of supporting backup documentation for disbursements except for one receipt totaling \$900 for an attorney retainer fee. In addition, the union spent approximately \$4,503.59 on gift cards to give to members during the holiday season. Although the union maintained vendor receipts regarding the gift card purchases, the union did not retain documentation verifying which members received a gift card(s).

As explained above, it is the officers' responsibility to retain any record necessary to verify, explain, or clarify any union expenses that are reported on the annual Labor Management (LM) Report filed with the Office of Labor-Management Standards.

Based on your assurance that your 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 your union for fiscal year ending December 31, 2006, was deficient in the following items:

1. Item 20 (Fidelity Bond) was reported with a zero. During the audit year, your union was covered by a bond for the maximum amount of \$75,000.
2. The audit revealed that the union deposited funds collected from "50/50" events into the union bank account(s). It appears as though these funds were misreported on Form LM-3 in Item #38, Dues. All funds other than those reported in Items 38 through 42 should be entered in Item 43 (Other Receipts).

I am not requiring that your union file an amended LM report for 2006 to correct the deficient item, but your union has agreed to properly report the deficient item on all future reports it files with OLMS.

### Other Violation

The audit disclosed the following other violation:

#### 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. Although your union is bonded for an adequate amount, your union's bond has a deductible of \$1,000. Self insurance by the union, in whole or in part, fails to meet the bonding requirements of the LMRDA. A union may not deposit its own funds with a surety company for losses sustained under a bond. A bond may also not have a deductible since that is a form of self-insurance.

Your union should obtain adequate bonding coverage for its officers and employees immediately. Please provide proof of bonding coverage to this office as soon as possible, but not later than February 29, 2008.

Other Issue

Use of Two Signatures

Currently your union requires only one signature on checks drawn from the union's checking account. To maintain strong internal financial controls within your union, OLMS recommends that unions should adopt a requirement that all checks drawn on the union's bank account have a second signature and ensure that the cosigner fully understands that his/her fiduciary responsibilities require that the checks be signed only after they are completely filled out and the cosigner knows the purpose and legitimacy of each transaction.

I want to extend my personal appreciation to Independent Cryogenics Workers' 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: Michael Tout, President