

U.S. Department of Labor

Employment Standards Administration
Office of Labor-Management Standards
Kansas City Resident Investigative Office
2300 Main Street, Suite 1000
Kansas City, MO 64108
(816) 502-0283 Fax: (816) 502-0288



August 17, 2009

Ms. Lisa DeSha, Dir. of Assoc. Operations
Nurses ASN, American, IND
SA
1904 Bubba Lane
Jefferson City, MO 65109

LM File Number 068-016
Case Number: [REDACTED]

Dear Ms. DeSha:

This office has recently completed an audit of Missouri Nurses Association (MONA) 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 Jill Kleithermes and you on August 07, 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.

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-2) filed by MONA for fiscal year ending December, 31, 2008, was deficient in the following areas:

1. PAC Funds

Item 11 of the LM-2 (During the reporting period did your organization have a political action committee (PAC) fund?) was correctly answered "Yes." However, the LM-2 instructions indicate that if the labor organization answered "Yes" to Item 11, the labor organization should provide in Item 69 (Additional Information) the full name of each separate political action committee (PAC) fund and list the name of any government agency, such as the Federal Election Commission or a state agency, with which the PAC fund has filed a publicly available report, and the relevant file number of the PAC fund. You failed to provide the name of the PAC fund or that reports of its activities were reported to the Missouri Ethics Commission.

2. Disbursements to Officers and Employees

MONA did not include some reimbursements to officers and employees totaling approximately \$13,991 in Schedule 11 (All Officers and Disbursements to Officers) and Schedule 12 (Disbursements to Employees). It appears that the local erroneously reported these payments in Schedules 15 through 19.

The union must report in Column F of Schedules 11 and 12 (Disbursements for Official Business) direct disbursements to officers and employees for reimbursement of expenses they incurred while conducting union business. In addition, the union must report in Column F of Schedules 11 and 12 indirect disbursements made to another party (such as a credit card company) for business expenses union personnel incur. However, the union must report in Schedules 15 through 19 indirect disbursements for business expenses union personnel incur for transportation by public carrier (such as an airline) and for temporary lodging expenses while traveling on union business. The union must report in Column G (Other Disbursements) of Schedules 11 and 12 any direct or indirect disbursements to union personnel for expenses not necessary for conducting union business.

3. Officers and Employees

MONA did not include all officers in Schedule 11 (All Officers and Disbursements to Officers) on the LM-2 report. The LM-2 report instructions indicate that the labor organization must report all of the labor organization's officers during the fiscal year for which the report was filed. MONA did not include past President [REDACTED] on Schedule 11 of the LM-2 report.

MONA incorrectly reported CEO Jill Kliethermes as an officer in Schedule 11 (All Officers and Disbursements to Officers), but MONA should have reported Ms. Kliethermes as an employee of the labor organization in Schedule 12 (Disbursements to Employees).

4. Funds Not Reported

LM-2 instructions indicate that funds that are required to be reported on the labor organization's LM-2 report include all funds of the labor organization, even if they are not a part of the labor organization's general treasury. This includes any funds that benefit, or are controlled by, the labor organization. MONA did not include its foundation fund and the related [REDACTED] accounts which are directly controlled by, and directly benefit, the union.

The failure to include the foundation funds, and failing to include the certificate of deposit purchased during the year, on the LM-2 report also resulted in an understatement of Item 22(B) (End of Reporting Period Cash). The LM-2 instructions indicate that cash should include all cash on hand such as undeposited cash, checks, and money orders; petty cash; and cash in safe deposit boxes. Cash on deposit includes funds in banks, credit unions, and other financial institutions such as checking accounts, savings accounts, certificates of deposit, and money market accounts.

5. Interest

Item 40 (Interest) was incorrectly reported. The LM-2 report instructions indicate that labor organizations should report the total amount of interest received by the labor organization from savings accounts, bonds, mortgages, loans, and all other sources. MONA reported interest as \$3, but it should have reported interest as \$280. Because MONA did not report all funds, some interest was not reported on the LM-2 report.

6. Dividends

Item 41 (Dividends) was incorrectly reported. The LM-2 report instructions indicate that labor organizations should report dividends from stocks and other investments received by the labor organization. MONA reported dividends of \$1,589, but it should have reported dividends of \$1,734. Because MONA did not report all funds, some dividends were not reported on the LM-2 report.

7. Total Receipts and Disbursements

Items 49 (Total Receipts) and 68 (Total Disbursements) were incorrectly reported. MONA reported total receipts of \$647,960, but should have reported approximately \$636,135 in total receipts. The total disbursements reported were \$631,028, but should have been reported as approximately \$619,844. Because the report did not include all funds, some activities that would be considered "transfers" were reported as receipts and disbursements on the union's LM-2 report.

8. Sale of Investments and Fixed Assets (Gross Sales Price)

Schedule 3 (Sale of Investments and Fixed Assets), Column D (Gross Sales Price) was incorrectly reported. LM-2 report instructions indicate that the labor organization must report details of the sale or redemption by the labor organization of U.S. Treasury securities, marketable securities, and fixed assets, including those fixed assets that were expensed during the reporting period. MONA reported the gross sales price of its investment as \$65,002, but should have reported the gross sales price as \$85,036. Because the LM-2 report populates certain fields, this error caused an error in Item 43 (Sale of Investments and Fixed Assets).

9. Schedule 4 (Purchase of Investments or Fixed Assets)

Schedule 4 (Purchase of Investments or Fixed Assets) was incorrectly reported. LM-2 report instructions indicate that the labor organization must report details of the purchase by the labor organization of U.S. Treasury securities, marketable securities, other investments, and fixed assets, including those fixed assets that were expensed during the reporting period. MONA reported purchase of investments and fixed assets as \$0, but should have reported approximately \$8,070. This figure includes the purchase of investments that were not reported as funds by the labor organization. Because the LM-2 report populates certain fields, this error caused an error in Item 60 (Purchase of Investments and Fixed Assets).

10. Schedule 5 (Investments) Total Book Value

Schedule 5 (Investments) total book value was incorrectly reported. LM-2 report instructions indicate that the book value is the lower cost or market value of the

labor organization's marketable securities. MONA reported the total book value of its marketable securities as \$28,790, but should have reported approximately \$35,555. This figure includes the book value of all of MONA's marketable securities, including securities from funds that were not reported.

11. Disposing of Property

Item 15 (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's LM-2 reports indicate that fixed assets decreased from the 2007 LM-2 report to the 2008 LM-2 report. The audit found that previous MONA officers were carrying items on the labor organization's fixed asset list which were no longer owned by the union. During the audit year, you updated the inventory list and removed assets MONA no longer owned. However, no explanation was provided for this on the LM-2 report in Item 69 (Additional Information).

When obsolete property is discarded and written off, Item 15 should be marked "Yes" and an explanation should be entered in Item 69 to explain the disposition of the property.

I am not requiring that MONA file an amended LM report for 2008 to correct the deficient items, but MONA has agreed to properly report the deficient items on all future reports it files with OLMS.

Other Issues

1. Vendor Overpayments

As I discussed during the exit interview with Jill Kliethermes and you, the audit revealed that MONA overpaid two vendors. The first vendor's contract with MONA stated that MONA should have paid \$19,000 for services during the fiscal year, but MONA paid \$20,227. The second vendor's contract with MONA stated that MONA should have paid \$5,000 for services during the fiscal year, but MONA paid \$6,091. Since the contracts serve as the documentation for the disbursements made to these contractors, MONA should not pay more than provided for in the contracts without additional documentation or explanation. Please ensure that any service agreements with vendors indicate the amount a vendor should be paid, including any bonus agreements.

2. Officer Benefit Overpayment

As I discussed during the exit interview with Jill Kliethermes and you, the audit revealed that MONA overpaid for previous Labor Relations Representative Stella Lindsey's benefits in the amount of \$142. When an officer or employee leaves the labor organization, please update all benefit information with the labor organization's bank to ensure that the vendor does not continue getting paid.

I want to extend my personal appreciation to Missouri Nurses Association (MONA) 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: Jill Kliethermes, CEO
Mary Berhorst, President
Mary Chaston, Treasurer