

U.S. Department of Labor

Employment Standards Administration
Office of Labor-Management Standards
Dallas District Office
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September 10, 2009

Mr. Darrell Dyer, Secretary Treasurer
Stage & Picture Operators AFL-CIO
Local 331
PO Box 424
Killeen, Texas 76540

LM File Number 027-305
Case Number: [REDACTED]

Dear Mr. Dyer:

This office has recently completed an audit of IATSE Local 331 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 Gerald Howard on July 16, 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 Local 331's 2007 records revealed the following recordkeeping violations:

1. General Reimbursed Expenses

Local 331 did not retain adequate documentation for reimbursed expenses incurred by officers. The local did not have any documentation to support any of the expenses listed on the LM report.

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.

2. Wages

Local 331 receive and disburses members' wages (payroll) on behalf of the signatory contractors. Local 331 did not retain adequate documentation for wage payments to members of the local. Although Local 331 maintained some lists for certain jobs, those lists are not adequate for wage payments. The union must maintain records in support of wage payments that identify each date wages were incurred, the number of hours on each date, the applicable rate of pay, and a description of the union business conducted. The OLMS audit found that Local 331 did not meet the requirement.

During the exit interview, we discussed the implementation of a new voucher that Local 331 may use to satisfy this requirement.

3. Failure to Record Receipts

Local 331 did not record in its receipts records any signatory contractor's payroll checks which consists of members' wages and other income for providing labor to the contractors. Union receipts records must include an adequate identification of all money the union receives. The records should show the date and amount received, and the source of the money.

4. Failure to Maintain Union Records

Local 331 failed to maintain a complete set of union's financial records. Local 331 had some bank statements and a complete set of check stubs; however, the local should have maintained all bank statements, copies of checks, and voided checks.

The proper maintenance of union records is the personal responsibility of the individuals who are required to file Local 331's LM report. You should be aware that under the provisions of Section 209(a) of the LMRDA and Section 3571 of Title 18 of the U.S. Code, willful failure to maintain records can result in a fine of up to \$100,000 or imprisonment for not more than one year, or both. Under the provisions of Section 209(c) of the LMRDA and Section 3571 of Title 18 of the U.S. Code, willful destruction or falsification of records can result in a fine of up to \$100,000 or imprisonment for not more than one year, or both. The penalties provided in Section 209(c) and Section 3571 of Title 18 apply to any person who caused the violations, not just the individuals who are responsible for filing the union's LM report.

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 Local 331 for fiscal year ending December 31, 2007, was deficient in the following areas:

1. Disbursements to Officers

Local 331 did not report any of the total amounts of payments to any officers 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.

The union must report most direct disbursements to Local 331 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 union's checkstubs did not have a beginning and ending account balance. 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.

Local 331 must file an amended Form LM-3 for fiscal year ending December 31, 2007, 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 September 21, 2009. Before filing, review the report thoroughly to be sure it is complete, accurate, and signed properly with original signatures.

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.

On August 7, 2009, the Dallas District Office received a copy of the updated bond. The bond in the amount of \$25,000.00 is adequate bonding coverage and Fidelity and Deposit Company of Maryland is listed on the U.S. Department of Treasury's approved surety company list.

2. Delinquent LM Report

The union is delinquent in filing its LM-3 report for fiscal year ending 12/31/08. The law requires the president and treasurer or corresponding principal officers of each labor organization to file an annual financial report with the Office of Labor-Management Standards (OLMS) within 90 days after the end of its fiscal year. Any labor organization which has terminated and ceased to exist or lost its identity through merger or consolidation must file a terminal financial report within 30 days of such action. Therefore, your organization's report is long overdue.

Please submit your union's delinquent report to this office at the above address by September 21, 2009. In order to facilitate optical scanning, the report must be on an original form containing boxes for entering certain items or prepared and printed from the OLMS website. Before mailing, review the report thoroughly to be sure it is complete, accurate, and signed properly with two original signatures.

3. Receipt Checks

It is a practice of Local 331 to allow stewards and/or members to receive Local 331 checks from signatory contractors that are for members' wages and other income for providing labor to the contractors. OLMS recommends that unions adopt written guidelines concerning receipt of all union income to ensure effective internal control of union funds. During the closing interview we discussed the possibility of having all checks mailed to the union's post office box and retrieved by a union officer.

I want to extend my personal appreciation to IATSE Local 331 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.

Mr. Darrell Dyer
September 10, 2009
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Sincerely,

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Investigator

cc: Gerald Howard