



June 11, 2010

Mr. Timothy Shultz  
Business Agent/Financial Secretary  
Elevator Constructors AFL-CIO Local 93  
2001 Elm Hill Pike  
Nashville, TN 37210

Case Number: [REDACTED]

LM Number: 009922

Dear Mr. Shultz:

This office has recently completed an audit of Elevator Constructors Local 93 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 President Larry Riley, Sr. on April 30, 2010, 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 93's 2009 records revealed the following recordkeeping violations:

1. Information not Recorded in Meeting Minutes

During the audit, Mr. Shultz advised OLMS that the membership authorized the purchase of a new laptop computer, printer, and security software for the local, and the purchase of gift cards and other prizes for the local's picnic at the April, 2009 membership meeting. Article XII, Section 3 of the Local Constitution and Bylaws requires that the funds of the local only be expended after a vote of the membership authorizing the expenditure. However, the minutes of the meeting do not contain any reference to those issues. Minutes of all membership or executive board meetings must report any disbursement authorizations made at those meetings.

2. Disposition of Property

Local 93 did not maintain an inventory of gift cards and other property it purchased for and gave away during the union's picnic. The union must report the value of any union property on hand at the beginning and end of each year in Item 28 of the LM-2. The union must retain an inventory or similar record of property on hand to verify, clarify, and explain the information that must be reported in Item 28.

Based on your assurance that Local 93 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-2 / LM-3) filed by Local 93 for fiscal year ending Month DD, 20YY, was [deficient in that or deficient in the following areas:

1. Disbursements to Officers (LM-3)

Local 93 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.

The union must report most direct disbursements to Local 93 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. Local 93 amended its constitution and bylaws in 2009, but did not file a copy with its LM report for that year.

Local 93 has now filed a copy of its constitution and bylaws.

I am not requiring that Local 93 file an amended LM report for 2009 to correct the deficient items, but Local 93 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 Local 93's officers and employees were not bonded for the minimum amount required at the time of the audit. However, the union obtained adequate bonding coverage and provided evidence of this to OLMS during the audit. As a result, OLMS will take no further enforcement action regarding this issue.

## 2. Gifts to Members

During the audit, Mr. Shultz advised OLMS that the union made a monetary donation in the amount of \$80.00 to a member whose family member had passed away. Article XII, Section 4 requires when voting on the expenditure of union funds, the Local is prohibited from directly or indirectly making donations or gifts to union members.

### Other Issues

#### 1. Duplicate Receipts

Members of Local 93 pay dues directly to the union. Mr. Shultz records dues payments in the union's receipts journal, but he does not issue receipts to dues payers. OLMS recommends that Local 93 use a duplicate receipt system where the union issues original pre-numbered receipts to all members who make payments directly to the union and retains copies of those receipts. A duplicate receipt system is an effective internal control because it ensures that a record is created of income which is not otherwise easily verifiable. If more than one duplicate receipt book is in use, the union should maintain a log to identify each book, the series of receipt numbers in each book, and to whom each book is assigned.

#### 2. Single Signature on Checks

During the audit, Mr. Shultz advised that it is Local 93's practice to have a single signature on all union checks. A 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. OLMS recommends that Local 93 review these procedures to improve internal control of union funds.

I want to extend my personal appreciation to Elevator Constructors Local 93 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,



Supervisory Investigator

cc: Mr. Larry Riley, President