



August 10, 2012

Mr. Gary Kendall, President
Elevator Constructors, AFL-CIO
Local 35
890 Third Street
Albany, NY 12206-1629

Case Number: [REDACTED]
LM Number: 024829

Dear Mr. Kendall:

This office has recently completed an audit of Elevator Constructors, Local 35 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 Business Manager Jay Woolford on July 13, 2012, 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 35's 2011 records revealed the following recordkeeping violation:

1. Credit Card Expenses

Local 35 did not retain adequate documentation for credit card expenses incurred by Business Manager Jay Woolford totaling at least \$411.

As 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. Disposition of Property

Local 35 did not maintain an inventory of hats, jackets, and other property it purchased, sold, or gave away. 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 (Other Assets). 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.

The union must record in at least one record the date and amount received from each sale of union hats, jackets and other items.

Based on your assurance that Local 35 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 Local 35 for the fiscal year ended December 31, 2011, was deficient in the following area:

1. Officers and Employees (LM-2)

Local 35 did not include an officer (Business Manager) in Schedule 11 (All Officers and Disbursements to Officers). It appears that the local erroneously reported this officer in Schedules 12 (Disbursements to Employees).

The union must report in Schedules 11 all persons who held office during the year, regardless of whether they received any payments from the union. Local 35 reported the Business Manager as an "employee." According to the local's constitution and bylaws this position is listed as an officer and a member of the executive board. Therefore, he/she should be reported in Schedule 11.

I am not requiring that Local 35 file an amended LM report for 2011 to correct the deficient items, but Local 35 has agreed to properly report the deficient items on all future reports it files with OLMS.

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 35 amended its constitution and bylaws in 2010, but did not file a copy with its LM report for that year. Local 35 has now filed a copy of its constitution and bylaws.

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I want to extend my personal appreciation to Elevator Constructors, Local 35 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: Mr. Robert Cole, Treasurer
Mr. Jay Woolford, Business Manager