



August 14, 2013

Mr. Justin Desmond, Treasurer
Painters, AFL-CIO, Local 1138
28 Eaton Road
Quincy, MA 02169

Case Number: 110-17654-
LM Number: 530134

Dear Mr. Desmond:

This office has recently completed an audit of Painters, AFL-CIO, Local 1138 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 Mark Jalbert on August 13, 2013, 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 1138's 2012 records revealed the following recordkeeping violations:

1. General Expenses

Local 1138 failed to retain adequate receipt documentation to support two disbursements made with check # [REDACTED] and check # [REDACTED], both dated 12/09/11 and issued to the Old

Dorchester Post totaling \$1,139 for expenses related to the union's Christmas party.

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. Failure to Record Receipts

Local 1138 did not record in its receipts records some checks received from members for dues payments totaling at least \$189.00. For example, [REDACTED] made a dues payment in the amount of \$98.50 on November 8, 2011, that was not documented in the Member's Ledger. 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.

3. Receipt Dates not Recorded

Entries in Local 1138's Member's Ledger reflect incorrect dates that the union received money, for example [REDACTED] made a dues payment of \$250 on June 29, 2012, that was documented in the Member's Ledger, but was incorrectly dated as having been received on June 29, 2011. Union receipts records must show the date of receipt. The date of receipt is required to verify, explain, or clarify amounts required to be reported in Statement B of the LM-3. The LM-3 instructions for Statement B state that the labor organization must record receipts when it actually receives money and disbursements when it actually pays out money. Failure to record the date money was received could result in the union reporting some receipts for a different year than when it actually received them.

Based on your assurance that Local 1138 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 LM-3 filed by Local 1138 for the fiscal year ended June 30, 2012, was deficient in the following areas:

1. Acquire/Dispose of Property

Item 13 [LM-3] (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 purchased 131 T-shirts at a cost of \$1,370.60 that were given to members at the annual Christmas party held on December 9, 2011, however, Item 13 of the FYE 06/30/12 report was answered "no." The union must identify the type and value of

any property received or given away in the additional information section of the LM report along with the identity of the recipient(s) or donor(s) of such property. The union does not have to itemize every recipient of such giveaways by name. The union can describe the recipients by broad categories if appropriate such as "members" or "new retirees." In addition, the union must report the cost, book value, and trade-in allowance for assets that it traded in.

2. Disbursements to Officers

Local 1138 reported all payments to you on the LM-3 form in Column E of Item 24. The amount reported on the LM-3 was \$1,444, which accounts for \$1,339.20 in salary and compensation, and a minimal amount officer expenses reimbursed to you throughout the fiscal year. Payments for officer salary, such as the six hours per quarter paid at the zone 1 new construction rate that you receive, should be reported in Column D of Item 24.

The union must report most direct disbursements to Local 1138 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).

I am not requiring that Local 1138 file an amended LM report for 2012 to correct the deficient items, but Local 1138 has agreed to properly report the deficient items on all future reports it files with OLMS.

Other Issues

1. Use of Signature Stamp

During the audit, you advised that it is Local 1138's practice for you to sign all union checks and to stamp the signature of President Jalbert on some union checks. You indicated that no one but yourself reviews the stamped checks before they are issued. Section 157 and Section 171 of the Constitution of the International Union of Painters and Allied Trades requires that checks drafted from a local union be signed by the president and treasurer. The 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. However, the use of a signature stamp for the second signer does not attest to the authenticity of the completed check, and negates the purpose of the two signature requirement. OLMS

recommends that Local 1138 review these procedures to improve internal control of union funds.

2. Duplicate Receipts

Members of Local 1138 pay dues directly to the union. The Financial Secretary of the local records dues payments in the union's receipts journal, but does not always issue receipts to dues payers. OLMS recommends that Local 1138 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.

3. Dual Signature Requirement:

The Constitution of the International Union of Painters and Allied Trades requires that the President and the Treasurer of local unions sign checks drafted from the local's account, but a review of disbursements made by Local 1138 revealed that some payments were issued with only one officer signature. The 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 1138 review its procedures to improve internal control of union funds.

4. Asset Inventory

During the audit it was revealed that Local 1138 has certain fixed assets such as a computer and various office supplies, but the local does not maintain an inventory of assets. OLMS recommends that an inventory of fixed assets be maintained to provide a record of all union property.

I want to extend my personal appreciation to Painters, AFL-CIO, Local 1138 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. Mark S. Jalbert, President