



July 27, 2016

Mr. John Malkowski, Treasurer  
Elevator Constructors, AFL-CIO Local 84  
1613 The Hideout  
Lake Ariel, PA 18436

Case Number: 140-6007462  
LM Number: 034216

Dear Mr. Malkowski:

This office has recently completed an audit of Elevator Constructors, AFL-CIO Local 84 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 on July 27, 2016, 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 Violation**

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 84's 2015 records revealed the following recordkeeping violation:

### Lack of Salary Authorization

Local 84 did not maintain records to verify that the salary reported for the treasurer in Schedule 11 (All Officers and Disbursements to Officers) of the LM-2. The Treasurer received \$7,060.80 (40 hours per quarter at the mechanics rate.) The union must keep a record, such as meeting minutes, to show the current salary authorized by the entity or individual in the union with the authority to establish salaries.

Based on your assurance that Local 84 will retain adequate documentation in the future, OLMS will take no further enforcement action at this time regarding the above violation.

### Reporting Violations

The audit disclosed violations 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 Local 84 for the fiscal year ended November 30, 2015 was deficient in the following areas:

#### 1. Sale of Supplies

Local 84 did not correctly report receipts from the sale of supplies or disbursements for supplies for resale. The audit revealed that during 2015, Local 84 disbursed at least \$1,212.00 for items that it re-sold to members, collecting receipts totaling at least \$500.00. The LM-2 instructions require that the union report receipts from the sale of supplies in Item 39 (Sale of Supplies) and disbursements for supplies for resale in Item 59 (Supplies for Resale). In addition, it must report the value of any supplies for resale on hand at the beginning and end of the year in Item 28 and Schedule 7 (Other Assets).

Additionally, Local 84's reporting of receipts in Item 48 (other receipts) was inaccurate in that \$919.00 in dues receipts was reported in Item 48 when it should have been reported in Item 36 (Dues and Agency Fees).

#### 2. Disbursements to Officers

Local 84 did not include some reimbursements to officers totaling at least \$725.00 in Schedule 11 (All Officers and Disbursements to Officers). 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. 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 84 amended its constitution and bylaws in 2015, but did not file a copy with its LM report for that year. During the audit, you provided a copy of the local's current bylaws with the membership approved amendment. No additional enforcement action will be taken regarding this violation.

I am not requiring that Local 84 file an amended LM report for 2015 to correct the deficient items, but Local 84 has agreed to properly report the deficient items on all future reports it files with OLMS.

I want to extend my personal appreciation to Elevator Constructors Local 84 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,



Senior Investigator

cc: Mr. Eric Boxer, President  
Mr. August Whymeyer, Business Agent