



August 9 2016

Mr. Edward Hernandez, Financial Secretary
Painters Local 521
P.O. Box 47140
Chicago, IL 60647

Case Number: 310-6006907 [REDACTED]
LM Number: 007350

Dear Mr. Hernandez:

This office has recently completed an audit of Painters Local 521 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 Local 521's Attorney John Toomey and you on July 12, 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 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 521's 2014 records revealed the following recordkeeping violations:

Disbursements by Check and Credit Card Expenses

Local 521 did not retain adequate documentation for disbursements by check and credit card expenses incurred by the union totaling at least \$12,000.00. For example, check [REDACTED] dated 4/22/14 to R. Pernini & Associates LLP for 1,600.00, check [REDACTED] dated

12/8/14 to IUPAT for \$1,211.00, and a credit card transaction dated 5/5/14 to Verizon for \$132.37 did not have receipts, invoices, or other supporting documentation verifying the disbursements.

In addition, Local 521 records of meal expenses did not always include written explanations of union business conducted or the names and title of the persons incurring the restaurant charges. For example, there were at least three meal expenses charged to the union credit card totaling approximately \$325.00 where this additional information was not recorded. Union records of meal expenses must include written explanations of the union business conducted and the full names and titles of all persons who incurred the restaurant charges.

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.

Based on your assurance that Local 521 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 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) filed by Local 521 for the fiscal year ended December 31, 2014, was deficient in the following areas:

1. Audit or Review of Records by an Outside Accountant

Item 12 (During the reporting period did the labor organization have an audit or review of its books and records by an outside accountant or by a parent body?) should have been answered, "Yes," because the local's outside accountant, R. Pernini & Associates LLP, audited the financial statements of the union.

2. Acquire/Dispose of Property

Item 15 (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 gave away shirts, hats, and gift cards totaling more than \$10,000.00 during the year. 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.

3. Failure to Report Date of Election

Item 19 (What is the date of the labor organization's next regular election of officers?) was incorrectly answered as "June 2015." Local 521 should have answered "June 2016" as the local was scheduled to hold its next officer election on June 27, 2016.

4. Failure to Properly Report Rates of Dues

Item 21 (What are the labor organization's rates of dues and fees?) was incorrectly answered as "\$128.25 per Month" for regular and working dues. Local 521 journeymen regular dues should have been reported as "\$131.00 per Quarter," and the regular retiree dues of "\$29.00 per quarter" should have been reported as the minimum regular dues. Additionally, working dues should have been reported as "N/A" because the local does not assess any working dues to its members.

5. Failure to Properly Report Receipts and Disbursements

Local 521 reported excessive receipts and disbursements totaling at least \$4,323.00 in Statement B (Receipts and Disbursements) by writing checks from the union's bank account and then depositing them back into the same checking account. Officer dues are paid by the union, and in order to create a record of the payment, the union made checks payable to Painters Local 521 each quarter and deposited the checks into the same account upon which they were drawn.

The LM-2 Instructions for Statement B states that receipts must be recorded when money is actually received by the labor organization and disbursements must be recorded when money is actually paid out by the labor organization.

6. Failure to Report Dividends

Local 521 did not report its receipts of dividends from stocks and other investments in Item 41 (Dividends). It appears that dividend receipts from investments in its Morgan Stanley and Chase investments accounts were erroneously reported in Item 40 (Interest).

7. From Members for Disbursement on Their Behalf

Local 521 incorrectly reported \$718.00 as received from members for disbursement on their behalf in Item 47 (From Members for Disbursement on Their Behalf). It appears that this amount should have been reported as dues and recorded in Item 36 (Dues and Agency Fees) of Statement B.

8. Failure to Correctly Report Purchase of Investments

Local 521 incorrectly reported \$179,620 as disbursed for the purchase of investments in Schedule 4 (Purchase of Investments and Fixed Assets). The audit revealed that purchases of investments should have been reported as \$177,586 in Schedule 4.

9. Failure to Properly Report Investments

In Schedule 5 (Investments Other Than U.S. Treasury Securities), Local 521 did not report the total cost in Item 5A and may not have properly reported the total book value in Item 5B for all of the union's investments. Book value must be reported as the lower of cost or market value. It appears that the local reported its investments at market value. Additionally, it appears that Local 521 did not list in Item 5C each marketable security with a book value over \$5,000.00, and exceeding 5% of Item 5B, in accordance with the LM-2 instructions.

10. Disbursements to Officers and Employees

Local 521 did not include some reimbursements to officers totaling at least \$3,600.00 in Schedule 11 (All Officers and Disbursements to Officers). It appears that the local erroneously reported these payments in Schedule 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.

11. Failure to Properly Itemize Disbursements

Local 521 erroneously reported that \$68,660 was disbursed on December 31, 2014 to Painters AFL-CIO, 140 Manchester Drive #20, Buffalo Grove, IL 60089-6722 in Schedule 19 (Union Administration). It appears that Painters AFL-CIO in Buffalo Grove, IL did not receive any disbursements from Local 521. This amount appears to represent all union disbursements (excluding officer wages, per capita tax, purchase of investments, and disbursements of withholding taxes) which should have reported as "major" and "all other disbursements" on the Detailed Summary Page and Schedules 15 through 19.

Specifically, the union did not properly report some "major" transactions in Schedules 15 through 19. A "major" transaction includes any individual transaction of \$5,000.00 or more or total transactions to or from any single entity or individual that aggregate to \$5,000.00 or more during the reporting period and which the local cannot properly report

elsewhere in Statement B. For example, the audit found that the local did not properly report “major” transactions totaling \$13,867.00 to R. Perini & Associates and \$7,253.23 to The Locker Room. Local 521 should have also properly reported all disbursements not classified as “major” transactions as “All Other Disbursements” on the Detailed Summary Page for Schedules 15 through 19.

12. 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 521 amended its constitution and bylaws in 2010, but did not file a copy with its LM report for that year. Local 521 has now filed a copy of its constitution and bylaws.

Local 521 must file an amended Form LM-2 for the fiscal year ended December 31, 2014, to correct the deficient items discussed above. In addition, as Local 521 has already filed its Form LM-2 for fiscal year ended December 31, 2015 which contains the deficient items, the local must file an amended Form LM-2 for 2015 as well. The reports must be filed electronically using the Electronic Forms System (EFS) available at the OLMS website at www.olms.dol.gov. The amended Forms LM-2 must be filed no later than September 23, 2016. Before filing, review the reports thoroughly to be sure they are complete and accurate.

I want to extend my personal appreciation to Painters Local 521 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. Hector Hernandez, President
Mr. John Toomey, Partner, Arnold & Kadjan