

U.S. Department of Labor

Office of Labor-Management Standards
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August 4, 2017

[REDACTED], President
Electrical Workers IBEW AFL-CIO, Local 791
[REDACTED]

Case Number: 110-6009038 [REDACTED]
LM Number: 032502

Dear [REDACTED]:

This office has recently completed an audit of Electrical Workers IBEW AFL-CIO, Local 791 (Local 791) 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 Secretary-Treasurer Jose Morales on May 19, 2017, 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 791's 2015 records revealed the following recordkeeping violations:

1. General Reimbursed

Local 791 did not retain adequate documentation for reimbursed expenses incurred by [REDACTED] and Jose Morales totaling at least \$185.00. For example, Mr. Morales was reimbursed for office supplies totaling \$25 on September 28, 2015; however, the union failed to maintain any receipts for the reimbursement.

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. Lost Wages

Local 791 did not retain adequate documentation for lost wage reimbursement payments to [REDACTED] and Jose Morales totaling at least \$2,754.50. The union must maintain records in support of lost wage claims that identify each date lost wages were incurred, the number of hours lost on each date, the applicable rate of pay, and a description of the union business conducted. The OLMS audit found that Local 791 maintained e-mails between the officers indicating that lost wages were earned on certain dates; however in some instances the rate of pay or union purpose was not indicated. In addition, some lost time payments had no corresponding back up documentation.

I am providing you the compliance tip sheet, *Union Lost Time Payments*, that contained a sample of an expense voucher Local 791 may use to satisfy this requirement. The sample identifies the type of information and documentation that the local must maintain for lost wages and other officer expenses.

3. Disposition of Property

Local 791 did not maintain an inventory of sweatshirts 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 30 (Other Assets) of the LM-3. 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 30. The union must record in at least one record the date and amount received from each sale of union sweatshirts and other items.

In addition, in the case of items given away to members, the union must retain records that identify the date the items were given away and the recipients of those items.

4. Failure to Maintain Receipts Records

Local 791 failed to record in some form of union record receipts from employer dues check off checks and initiation fees throughout the period. Union receipts 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.

The OLMS audit found that the union maintains check off lists provided by the employer and new member applications, however no receipts journal or similar union record is maintained. Such records should show the date of the receipt. The date of receipt is required to verify, explain, or clarify amounts required to be reported in Statement B (Receipts and Disbursements) of the LM-3. The LM-3 instructions for Statement B state that the labor organization must record receipts when it actually receives 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.

5. Salary Authorization & Meeting Minutes Retention

Local 791 did not maintain records to verify that the salaries reported in Item 24 of the LM-3 was the authorized amount and therefore correctly reported. 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.

During the audit, Mr. Morales advised OLMS that the membership authorized the salary and allowance amounts for officers during a prior membership meeting; however Local 791 maintained no minutes of that or any other meeting for fiscal year 2015. Minutes of all membership or executive board meetings must report any disbursement authorizations made at those meetings.

Based on your assurance that Local 791 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 791 for the fiscal year ended December 31, 2015, 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 gave away sweatshirts totaling more than \$2,800 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.

2. Disbursements to Officers (LM-3)

Local 791 failed to properly report and failed to include some reimbursements to officers during the period, in the amounts reported in Item 24 (All Officers and Disbursements to Officers). It appears the union may have erroneously reported some payments to officers elsewhere on the form. The union failed to properly report amounts categorized as salary and other disbursements in the amount reports in Column D and E of Item 24.

The union must report most direct disbursements to Local 791 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).

3. Improperly Reporting Receipts and Disbursements

It appears that the union did not report the total receipts and total disbursements properly in Item 44 (Total Receipts) and Item 55 (Total Disbursements) according to Local 791's records, therefore affecting the union's ending balance in Item 25 (Cash) after reconciliation to the bank statements. Local 791 failed to include all receipts such as initiation fees received in the figures as reported on the LM-3 Form. Additionally, the union reported disbursements higher than what was actually disbursed during the period. The instructions for Item 25 state that the union should obtain account balances from its books as reconciled to the balances shown on bank statements. Failing to report the total receipts received or the proper total disbursements as represented in the union's records will result in incorrect cash figures.

I am not requiring that Local 791 file an amended LM report for 2015 to correct the deficient items at this time; however, Local 791 has agreed to report the correct beginning of year cash balance on its 2016 LM report and to properly report the deficient items on all future reports it files with OLMS.

Other Violation

The audit disclosed the following other violation:

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.

During fiscal year 2016, Local 791's officers and employees were bonded for \$5,000, but they were required to be bonded for at least \$6,500. You have provided OLMS with a copy of your new Labor Bond Certificate indicating that IBEW Local 791 is now bonded in the amount of \$10,000.

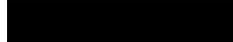
Other Issue

Duplicate Receipts

Members of Local 791 pay initiation fees directly to the union. Mr. Morales does not record dues payments in a receipts journal, nor does he issue receipts to dues payers. OLMS recommends that Local 791 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.

I want to extend my personal appreciation to Electrical Workers IBEW AFL-CIO, Local 791 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. Jose Morales