

U.S. Department of Labor

Office of Labor-Management Standards
Boston-Buffalo District Office
JFK Federal Building, Suite E-365
Boston, MA 02203
(617) 624-6690 Fax: (617) 624-6606



January 26, 2018

Case Number: 110-6012105
LM Number: 502123

Mark Vigliotta, President
Metal Trades Council - Portsmouth
P.O. Box 2052
Portsmouth, NH 03804

Dear Mr. Vigliotta:

This office has recently completed an audit of Metal Trades Council-Portsmouth (MTC) under the Compliance Audit Program (CAP) to determine your organization's compliance with the provisions of the Civil Service Reform Act of 1978 (CSRA), 5 U.S.C. 7120, and the Department's regulations, 29 CFR 458. As discussed during the exit interview with you and Treasurer Brandon Clithero on January 26, 2018, 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 of the LMRDA and Title 29 of the Code of Federal Regulations (C.F.R.) Section 403.7 require, among other things, that labor organizations maintain adequate records for at least five years after reports are filed by which the information on the reports can be verified, explained and clarified. Pursuant to 29 C.F.R. Section 458.3, this recordkeeping provision of the LMRDA applies to labor organizations subject to the requirements of the Civil Service Reform Act of 1978 (CSRA) as well. Therefore, as a general rule, labor organizations must retain 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 the MTC's 2016 records revealed the following recordkeeping violations:

1. General Reimbursed Expenses

The MTC did not retain adequate documentation for reimbursed expenses incurred by certain

officers. For example, the union records contained no receipts for expenses totaling \$2,064.29 that were related to President Mark Vigliotta's trip to the 2016 MTD Convention. Similarly, during the existence of the MTC's petty cash fund, the union did not always require officers to submit receipts.

As noted above, labor organizations must retain original receipts, bills, and vouchers for all disbursements. The president and treasurer 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

The MTC did not record in its receipts records some employer dues checkoff checks. For example, the MTC did not keep any records at all of contributions made to its Delta Dental Fund. 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. Lack of Salary Authorization

The MTC did not maintain records to verify that the salaries reported in Schedules 11 (All Officers and Disbursements to Officers) and 12 (Disbursements to Employees) of the LM-2 / Item 24 (All Officer and Disbursements to Officers) of the LM-3 was the authorized amount and therefore was 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.

4. Fixed Assets

The MTC failed to maintain any records that identified its fixed assets. During the audit, Mr. Clithero and Mr. Vigliotta advised that the MTC does not keep an inventory list of its fixed assets, which include at least five computers and peripheral accessories.

In the case of fixed assets, the union must maintain an inventory or other similar record identifying each fixed asset and the cost and depreciation of each fixed asset. Such records are to be retained to verify, clarify, and support information required to be reported in Item 29 (Fixed Assets) of the Form LM-3.

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

Reporting Violations

Pursuant to 29 C.F.R., Section 458.3, the reporting requirement under 29 C.F.R. Section 403.2 (see Section 201(b) of the Labor-Management Reporting and Disclosure Act (LMRDA)) is made applicable to labor organizations subject to the requirements of the CSRA. This provision requires labor organizations to file annual financial reports that accurately disclose their financial

condition and operations. The audit disclosed a violation of this requirement. The Labor Organization Annual Report (LM-3) filed by the MTC for the fiscal year ended December 31, 2016, was deficient in the following areas:

1. Disbursements to Officers

The MTC did not report the names of some officers and the total amounts of payments to them or on their behalf in Item 24 (All Officers and Disbursements to Officers). The union must report in Item 24 all persons who held office during the year, regardless of whether they received any payments from the union.

The union must report most direct disbursements to the MTC's 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).

2. Failure to File Bylaws

Pursuant to 29 C.F.R. Section 458.3, the requirement under 29 C.F.R. Section 402.4 implementing LMRDA Section 201(a) is made applicable to labor organizations subject to the requirements of the CSRA. This provision requires labor organizations to file copies of any revised constitution and bylaws when it files its annual financial report. The audit disclosed a violation of this requirement. The MTC amended its constitution and bylaws in 1983, but did not file the required copies with its LM report for that year.

The MTC has now filed a copy of its constitution and bylaws.

The MTC must file an amended Form LM-3 for the fiscal year ended December 31, 2016, to correct the deficient items discussed above. I encourage the MTC to complete, sign, and file its report electronically using the Electronic Forms System (EFS) available at the OLMS website at www.olms.dol.gov. Reporting forms and instructions can be downloaded from the website, if you prefer not to file electronically. The amended Form LM-3 should be filed electronically no later than April 30, 2018, or submitted to this office at the above address by the same date. Before filing, review the report thoroughly to be sure it is complete and accurate. Paper reports must be signed with original signatures.

I want to extend my personal appreciation to Metal Trades Council - Portsmouth 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


Mr. Mark Vigliotta

January 26, 2018

Page 4 of 4

future officers. If we can provide any additional assistance, please do not hesitate to call.

Sincerely,


Investigator

cc: Mr. Brandon Clithero, Treasurer