



January 30, 2019

Mr. Zon K. Cowan, Secretary-Treasurer
Boilermakers
Lodge D-397
P.O. Box 431
Foreman, AR 71836

Case Number: 420-6014226 [REDACTED]
LM Number: 050699

Dear Mr. Cowan:

This office has recently completed an audit of Boilermakers, Lodge D-397 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 November 30, 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.

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-3 filed by Lodge D-397 for the fiscal year ended June 30, 2017, was deficient in the following areas:

1. Other Receipts

Lodge D-397 incorrectly reported \$37,910 as other receipts. The audit disclosed the funds were from a checking account that was closed and deposited into the lodge's current checking account. The funds should have been reported in Item 25A (Cash at the Start of the Reporting Period).

2. Certificate of Deposit Reported as U.S. Treasury Securities

Lodge D-397 erroneously reported funds totaling \$42,909 from its certificate of deposit in line item 27A (U.S. Treasury Securities). For LM reporting purposes, OLMS considers a certificate of deposit to be cash. The purchase or redemption of a certificate of deposit is a transfer of cash from one account to another and, therefore, the local should not report these transactions as receipts or disbursements.

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. Lodge D-397 amended its constitution and bylaws in 2015, but did not file a copy with its LM report for that year.

Lodge D-397 has now filed a copy of its constitution and bylaws.

4. Professional Fees

Lodge D-397 failed to correctly report all disbursements for professional fees in line Item 49. Professional fees for auditing, economic, research, computer consulting, arbitration, etc. The audit disclosed that Lodge D-397 reported disbursements totaling \$3,161.81 in line Item 48 (Office and Administrative Expenses). The \$3,161.81 was associated to arbitration fees and should have been reported in line item 49.

5. Disbursements to Officers

Lodge D-397 did not include some reimbursements to President Mitchell Beasley, Vice President Hilton "Doc" Moore, Secretary/Treasurer Zon Cowan, and former Treasurer Joel Green totaling at least \$10,196 in the amounts reported Item 24 (All Officers and Disbursements to Officers). It appears the union erroneously reported these payments in Item 48.

The union must report most direct disbursements to Lodge D-397 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 in Item 24 for a disbursement 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 Expenses).

In as much as Lodge D-397 has electronically submitted an amended report, correcting the aforementioned deficiencies, OLMS will take no further enforcement action those issues.

I want to extend my personal appreciation to Boilermakers, Lodge D-397 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. Mitchell C. Beasley, President
Mr. Hilton Moore, Vice-President
Mr. Toddrick Smith, Recording Secretary
Trustees James Bates, Mark Clements, and Leroy Hardwick