

U.S. Department of Labor

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July 26, 2006

Mr. Carl Johnson, President
Mr. Joseph Philip, Treasurer
Painters AFL-CIO, Local 178
557 Powers Road
King Ferry, NY 13801

Re: Case No. _____

Dear Mr. Philip:

This office has recently completed an audit of Painters AFL-CIO Local 178 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, President Johnson, Financial Secretary Eads-Brewer, and District Council 4 Business Representative Richard Hinckley on July 20, 2006, 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.

The CAP disclosed the following:

Recordkeeping Violations:

Title II of the LMRDA establishes certain reporting and recordkeeping requirements. Section 206 requires, among other things, that adequate records be maintained for at least 5 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, all records used or received in the course of union business must be retained. This includes, in the case of disbursements, not only the retention of original bills, invoices, receipts, and vouchers, but also adequate additional documentation, if necessary, 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 note can be written on it providing the additional information. An exception may be made only in

those cases where 1) other equally descriptive documentation has been maintained, and 2) there is evidence of actual oversight and control over disbursements.

- Local 178 failed to maintain an inventory of T-Shirts which were purchased given away. Records must be maintained that account for all union property. In the case of item given/raffled to members, the date and method of distribution must be recorded in at least one record.
- Some checks that were voided and not issued were not retained.
- Union officers failed to maintain adequate documentation for reimbursed expenses. The date, amount, and business purpose of every expense must be recorded on at least one union record.

As agreed, provided that Local 178 maintains adequate documentation as discussed above in the future, no additional enforcement action will be taken regarding these violations.

Reporting Violations

The CAP disclosed a violation of LMRDA Section 201(b), which requires labor organizations to file annual financial reports accurately disclosing their financial condition and operations.

- Local 178 failed to file the Labor Organization Annual Report Form LM-3 within 90 days of the end of their fiscal year each year from 1998 - 2005.
- The Labor Organization Annual Report Form LM-3 filed by Local 178 for fiscal year ending May 31, 2005, was deficient in the following areas:
 - Item 9 was not answered yes or no. The union should have answered "no" to this question and listed the address of the Treasurer and Financial Secretary, as they both maintain union records.
 - Item 24 contained blanks. Each space must be completed with a number or a "0."
 - The names of some officers and the total amounts of payments to them or on their behalf were not reported in Item 24 (All Officers and Disbursements to Officers). All persons who held office during the year must be reported in Item 24 regardless of whether or not they received any payments from the union.
 - Local 178 failed to include some reimbursements to officers and employees in Item 24 (All Officers and Disbursements to Officers).

- Such payments appear to have been erroneously reported in Item 48, Office and Administrative Expense.
- Salary totals listed in column D of Item 24 for Eads-Brewer, Philip, and Theleman did not match the total of salaries paid to each of them according to union records.
 - Item 25 - 55 contained blanks. Each space must be completed with a number or a "0."
 - The following reported amounts were incorrect:
 - Item 25, Beginning cash - According to reconciliation with bank records, the beginning and ending cash were incorrect.
 - Item 38, Dues - As discussed during the exit interview, the total dues figure was taken from the total amount of bank deposits rather than the actual amount of dues received.
 - Item 42, Interest - The local is earning interest on their Tompkins Trust Company Savings account that must be recorded as a receipt.
 - Item 45 - Incorrect totals for each officer in Item 24 carry over to the total disbursements to officers.
 - Item 47, Per Capita Tax - A total of checks written for per capita during fiscal year 2005 did not match the figure listed in item 47.
 - Item 48, Office & Administrative Expense - Postage and supplies reimbursed to officers should have been reported in Item 24.
 - Item 50, Benefits - There were two small disbursements for pensions and annuities.
 - Item 51, Contributions, Gifts & Grants - Donations, flowers, and charitable contributions were previously reported in "Item 54, Other Disbursements."
 - Item 54, Other Disbursements - Only miscellaneous expenses that do not meet the definitions of any other disbursement category should be reported in item 54.

I am not requiring that Local 178 file an amended LM report for 2005 to correct the deficient items, but as agreed, Local 178 will properly report the deficient items on all future reports filed with this agency. Local 178 will ensure that future LM-3 annual reports are filed within 90 days of the end of their fiscal year.

Other Issues:

- Local 178 and District Council 4 are separate organizations. Mr. Hinckley is the Business Representative for DC 4, not local 178; therefore, he should not be listed in Item 24 of Local 178's annual LM-3 or handling local union funds.
- Currently, local 178 only requires one signature on union checks. I highly encourage you to adopt a policy requiring two signatures on all union checks and bank accounts. Doing so enhances your union's system of checks and balances to safeguard union funds.

I want to extend my personal appreciation to you, Mr. Johnson, and Ms. Eads-Brewer 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:

President Carl Johnson