

U.S. Department of Labor

Employment Standards Administration
Office of Labor-Management Standards
Milwaukee District Office
517 East Wisconsin Avenue, Room 737
Milwaukee, WI 53202-4504
(414)297-1501 Fax: (414)297-1685



June 26, 2006

Mr. George Murray, President
Painters Local 934
3509 15h Street, APt. 1A
Kenosha, WI 53144-3112

Re: Case Number ~~_____~~

Dear Mr. Murray:

This office has recently completed an audit of Painters Local 934 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, Business Representative Cardinali, and CPA Mike Lewandowski on May 17, 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.

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 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, 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 recipients of the goods or services. In most instances, this documentation requirement can be most easily satisfied with a sufficiently descriptive receipt. If a 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.

In the case of receipts, the date, amount, purpose, and source of all money received by the union must be recorded in at least one union record. Bank records must also be retained for all accounts.

1) Disposition of Property

Local 934 failed to retain an inventory of hats, jackets, and other property valued at over \$3,900, which was purchased and sold or given away. Records must be retained which account for all union property. In the case of union hats, jackets and other items sold to members, the date and amount received from every sale must be recorded in at least one record. Records must also be maintained that support figures reported on the LM-3 report, specifically figures reported Items 30(A) and 30(B) (Other Assets).

2) Disbursement Records

Local 934 failed to retain adequate documentation for reimbursed expenses and payments to officers for meeting attendance.

Check ~~_____~~ (\$64.82) payable to Don Cardinali lacked any supporting documentation to explain and verify the union purpose of the expense.

Several checks to officer for meeting attendance indicated that they were for "DC expense" or "E-board expense." Mr. Cardinali provided meeting sign-in sheets, but the amount of the checks could not be verified with these. In addition, no information was noted on the checks or the checks stubs, nor were any other records created or retained to explain how the check amounts were calculated.

Additionally, Local 934 failed to retain adequate documentation for expenses that were paid directly by the local. These disbursements include payments to Infusino's for pizza after membership meetings and payments to the District Council 7 which appear to be payment of the officers' union dues. Local 934 did not retain any documentation for the payment to Infusino's and the description on the check stub for the payments to the District Council was not sufficiently descriptive.

The date, amount, and business purpose of every expense must be recorded on at least one union record.

3) Voided Checks

Local 934 failed to retain voided checks.

All union records created, used, or received during the course of union business and which are necessary to verify, explain or clarify, and check for accuracy and completeness an LM report must be retained for five years following the date the LM is filed.

4) Receipts Records

Local 934 failed to accurately record in its records some dues check-off checks from the District Council and money for interest earned on the checking account. Union receipts records must include an adequate identification of each receipt of money. The records should show the exact date that the money was received, the identity of the source of the money, and the individual amount received from each source. Local 934 records the money received from the District Council on the date it is deposited into the checking account, not on the date it was received. Additionally, the entry on the check stub is identified as a deposit, rather than identifying the source as the District Council. Interest payments posted to the checking account of Local 934 at the end of each month by the bank are not recorded in the check register until the following month or sometimes several months later. As noted in the Labor Organization Annual Report (Form LM-3) instructions, the report is required to be prepared using the cash method of accounting. Under the cash method of accounting, receipts are recorded when money is actually received by your organization and disbursements are recorded when money is actually paid out by your organization. Failure to record the exact date that monies were received could result in some receipts being reported in a different year than they were actually received. Additionally, stubs that accompany the checks sent to Local 934 from the District Council were not retained.

As agreed, provided that Local 934 maintains adequate documentation for its assets, receipts and disbursements 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) because the Form LM-3 Labor Organization Annual Report (LM-3) filed by Local 934 for fiscal year ending December 31, 2005 was deficient in the following areas:

1) Item 23 (Rates of Dues and Fees)

The amount reported in Item 23 (\$30/month) was not accurate for the dues rate for fiscal year ending December 31, 2005. During the opening interview with you, Mr. Huss and Mr. Cardinali, all three of you advised that the dues rate for the fiscal year was \$30.90 per month.

2) Item 24 (All Officers and Disbursements to Officers)

Local 934 disbursed money to the District Council for the payment of the monthly union dues of the officers and Mr. Cardinali. However, these figures were not reported in Item 24. These are indirect disbursements on behalf of the officers. During the opening interview with you, Mr. Huss and Mr. Cardinali, you advised that part of the compensation for holding an officer position included the payment of the officers' dues by the local. Such payments should be reported in Column D of Item 24 next to each officer's name.

All direct disbursements to your union's officers and some indirect disbursements made by your organization on behalf of its officers must be included in the amounts reported in item 24. A "direct disbursement" to an officer is a payment made by your organization to an officer in the form of cash, property, goods, services, or other things of value. An "indirect disbursement" to an officer is a payment made by your organization to another party (including credit card companies) 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).

3) Item 30(B) (Other Assets)

Item 30 (B) (Other Assets, end of reporting period) is incorrect. Mr. Lewandowski, the CPA who prepared your union's report, stated that the figure reported in Item

30(B) includes the total value of the inventory of hats, jackets and other local apparel the union had on hand at the beginning of the year, plus the value of the apparel that the local purchased during the year. This figure is not accurate because the local sold and gave away some of the inventory before the end of the year, therefore the number reported in Item 30(B) is overstated.

4) Item 38 (Dues)

Item 38 (Dues) is incorrect. Lewandowski stated that the number reported in Item 38 is comprised of the total dues received by your local from the District Council, less the amount that the local pays to the District Council for the officers dues, resulting in a "net amount" of dues received. Page eight of the LM-3 reporting instructions state the LM-3 must be prepared using the cash method of accounting, in which all receipts are recorded. Furthermore, the LM-3 instructions state that since Statement B reports all cash flowing in and out of your organization, "netting" is not permitted. All cash receipts and cash disbursements of money must be accounted for on the LM report.

5) Item 40 (Fees, Fines, Assessments and Work Permits)

Item 40 (Fees, Fines, Assessments and Work Permits) does not include any of the money Local 934 received from the District Council for these categories of receipts. According to reports sent to the local by the District Council, the local receives money collected by the District Council for late fees, reinstatement fees, and clearance card fees. These fees totaled \$3,021.20 for fiscal year ending December 31, 2006. It appears that these receipts were incorrectly reported in Item 38 (Dues).

6) Item 46 (To Employees)

Item 46 (To Employees) failed to include reimbursed expenses to Business Representative Donald Cardinali (\$64.82).

7) Item 56 (Additional Information)

Item 56 (Additional Information) failed to include information regarding the union logo apparel Local 934 gave away to its members during the fiscal year.


The type and value of any property received or given away must be identified in the additional information section of the LM report with the identity of the

recipient(s) or donor of such property. In the case of union hats and other items distributed to a large number of members, the names of all members receiving such items need not be reported in the additional information section. Instead, the union may simply identify the type and value of property given away and identify the number of members that received each type of item. If the items given away were distributed to a specific section of the union's membership, it would be appropriate to also include that information.


I am not requiring that Local 934 file an amended LM-3 report for 2005 to correct the deficient items, but as agreed, your union will properly report the deficient items on all future reports filed with this agency. However, the LM-3 filed for the 2006 fiscal year will be audited, and, if necessary, Local 934's financial records will be examined to assess compliance with the LM reporting requirements. If the 2006 report is similarly deficient, we will ask for amended 2005 and 2006 reports.

I want to extend my personal appreciation to Painters Local 934 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 are passed on to future officers. If we can provide any additional assistance, please do not hesitate to call.

Sincerely,


Investigator

cc: Michael Huss, Treasurer


LM 007-520