

U.S. Department of Labor

Employment Standards Administration
Office of Labor-Management Standards
Detroit District Office
211 West Fort Street
Room 1313
Detroit, MI 48226
(313)226-6200 Fax: (313)226-4391



June 26, 2008

Mr. Jim Wright, Treasurer
Stage & Picture Operators AFL-CIO
Local 395
P.O. Box 8271
Ann Arbor, MI 48107

LM File Number: 030-408

Case Number: [REDACTED]

Dear Mr. Wright:

This office has recently completed an audit of IATSE Local 395 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 President Rick Barthelot on June 23, 2008, 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 395's 2007 records revealed the following recordkeeping violations:

1. General Reimbursed Expenses

Local 395 did not retain adequate documentation for reimbursed expenses incurred by union officers and employees totaling at least \$1,743.36. For example, check [REDACTED] was dated July 25, 2006, and payable to you for \$668.23 for picnic expenses, but the local failed to maintain any receipts or vouchers documenting the expenses. Additionally, check [REDACTED] was dated August 3, 2006, and payable to Michael Patterson for \$812.70 for convention expenses, but the local again failed to maintain any receipts or vouchers documenting the expenses.

As previously 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 395 did not retain adequate documentation for lost wage reimbursement payments to union officers and employees totaling at least \$1,074.26. The union must maintain records in support of lost wage claims that identify the dates and times (e.g. 8:00 a.m. to 4:00 p.m.) 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 395 failed to maintain any records that identified the dates and times lost wages were incurred, the number of hours lost on each date, and the applicable rate of pay.

During the exit interview, I provided a sample of an expense voucher Local 395 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. Reimbursed Auto Expenses

Union officers and employees who received reimbursement for business use of their personal vehicles did not retain adequate documentation to support

payments to them totaling at least \$309.94 during 2007. The union must maintain records which identify the dates of travel, locations traveled to and from, and number of miles driven. The records must also show the business purpose of each use of a personal vehicle for business travel by an officer or employee who was reimbursed for mileage expenses.

4. Inaccurate Check Dates and Check Numbers

The local recorded in its ledger inaccurate dates or check numbers for checks totaling \$13,044.66. The local's records must accurately reflect the proper check dates and check numbers. Failure to record the proper dates of checks could result in the union reporting some disbursements for a different year than that in which they were actually made.

5. Dues Checkoff Records

Local 395 did not record in its receipts records some employer dues checkoff checks. For example, a check from K & L Management, dated October 11, 2006, was still attached to the check stub and the accompanying checkoff documentation, but was not recorded in the local's receipts records. Union receipts records must include an adequate identification of all money the union receives. The records must show the date and amount received, and the source of the money.

6. Certificates of Deposit

The local failed to maintain any bank records documenting the interest earned on its certificates of deposit. As noted above, Local 395 must maintain all bank records used or received in the course of union business, including CD records.

The local also failed to accurately record in its receipts records the interest deposits on certificates of deposit. The local lumped together several interest deposits, some of which were earned and deposited during the previous fiscal year, and failed to record other deposits entirely. Failure to accurately record the date money was received could result in the union reporting some receipts for a different year than when it actually received the monies.

7. Lack of Salary Authorization

Local 395 did not maintain records to verify that the salaries reported in Item 24 (All Officer and Disbursements to Officers) of the LM-3 were the authorized amounts and, therefore, were 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.

8. Surety Bond

The local was unable to provide any evidence of its surety bond. As noted above, labor organizations must maintain all records used or received in the course of union business, including labor organization surety bond certificates.

9. Tax Withholding Records

The local was unable to locate its tax withholding records for calendar year 2007, and the tax withholding records for calendar year 2006 contained inaccurate entries. Failure to maintain accurate tax records could result in the union misreporting amounts withheld to the IRS, thereby creating discrepancies between taxes submitted and the actual tax liability of both the local and/or its officers.

Based on your assurance that Local 395 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(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. Local 395 amended its constitution and bylaws in 2006, but did not file a copy with its LM report for that year. Local 395 has now filed a copy of its constitution and bylaws.

The audit also disclosed a violation of LMRDA Section 201(b), which requires the president and treasurer, or corresponding principal officers, of each labor organization to file an annual financial report accurately disclosing the union's financial condition and operations. The report must be filed within 90 days after the end of the labor organization's fiscal year. As Local 395's fiscal year ends on June 30, it must file its annual financial report by September 28. Local 395 filed its Form LM-3 for fiscal year ending June 30, 2007, on November 13, 2007. The law does not authorize OLMS to

grant an extension of time for filing reports. At the exit interview, you agreed that Local 395 will file all future reports with OLMs in a timely manner.

The audit disclosed additional violations of LMRDA Section 201(b), in that the Labor Organization Annual Report LM-3 filed by Local 395 for fiscal year ending June 30, 2007, was deficient in the following areas:

1. Disbursements to Officers

Local 395 did not include some reimbursements or disbursements to officers totaling at least \$1,387 in the amounts reported in Item 24 (All Officers and Disbursements to Officers). It appears the union erroneously reported these payments in Item 48 (Office and Administrative Expenses). Additionally, Local 395 over reported Business Agent Cal Hazelbaker's salary in Item 24. The local reported that Mr. Hazelbaker received \$15,270 in salary payments, when he actually received only \$14,063.

The union must accurately report most direct disbursements to Local 395 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. Receipts and Disbursements

The total receipts reported in Statement B, Item 44 (Total Receipts) and the total disbursements reported in Statement B, Item 55 (Total Disbursements) do not match the total figures in the union's records. The local must accurately report total receipts and total disbursements on its LM-3 report.

The instructions for Statement B (Receipts and Disbursements) of Form LM-3 state that receipts must be recorded when money is actually received by the labor organization and disbursements must be recorded when money is actually paid

out by the labor organization. Transfers between separate bank accounts or between special funds of your organization, such as vacation or strike funds, do not represent the flow of cash in and out of your organization. Therefore, these transfers should not be reported as receipts and disbursements of your organization.

3. Dues and Fees

Local 395 failed to report in Item 23 (Dues and Fees) that its members pay working dues to the local of four percent of their gross wages. The local must report in Item 23 the regular dues or fees or other periodic payments, including working dues, which a member must pay to be in good standing in the organization, and enter the calendar basis for the payment (per month, per year, etc.)

Local 395 must file an amended Form LM-3 for fiscal year ending June 30, 2007, to correct the deficient items discussed above. I provided you with a blank form and instructions, and advised you that the reporting forms and instructions are available on the OLMS website (www.olms.dol.gov). The amended Form LM-3 should be submitted to this office at the above address as soon as possible, but not later than July 14, 2008. Before filing, review the report thoroughly to be sure it is complete, accurate, and signed properly with original signatures.

Other Issues

1. Two Signatures on Checks

The LMRDA outlines general fiduciary responsibilities for officers and employees of labor organizations. Union officials occupy positions of trust and, therefore, must ensure that the union's funds and other assets are used solely for the benefit of the union and its members. To prevent, or at least inhibit, the misuse of their funds, most organizations install internal controls over the handling of their finances. The audit disclosed that union checks were signed by only one officer. This is not a recommended financial practice, and Local 395 is encouraged to adopt a policy requiring that all checks drawn on the union's bank account have a second signature, and ensure that each signer fully understands that his fiduciary responsibilities demand that checks be signed only after they are completely filled out and he knows the purpose and legitimacy of each transaction.

2. Check to Cash

Local 395 issued one check to "cash" during the audit period. Checks to "cash" may be easily negotiated by unauthorized individuals. An effective internal control that your union should consider implementing to prevent this from occurring is to prohibit the practice of drawing checks to "cash," and issue each check in the name of the intended payee. If cash is required to replenish a properly documented petty cash fund, it should, nevertheless, be obtained by drawing checks in the name of the custodian in order to provide the union with a paper trail of all check disbursements.

3. Account Signatories

The audit disclosed that former Treasurer [REDACTED] is listed as a signatory on the union's bank accounts. As [REDACTED] is no longer an officer of the union, Local 395 should take immediate steps to remove [REDACTED] as a signatory on the accounts, and ensure that only current officers are listed as signatories in the future.

4. Vouchers

Another financial safeguard that Local 395 should consider is to require the preparation of a payment voucher prior to issuing a union check. Payment vouchers normally contain an explanation of the disbursement being made. Invoices, bills, receipts, etc., that are being paid are normally attached to the payment voucher. Even where supporting records are not attached, the explanation included on the voucher may be useful in providing documentation concerning a particular disbursement represented by a canceled check.

5. Duplicate Receipts

Some members of Local 395 pay dues directly to the union. Mr. Wright records dues payments in the union's receipts journal, but he does not issue receipts to dues payers. OLMS recommends that Local 395 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. Furthermore, Local 395 officers should consider performing a cash count when money is turned over to another officer and sign a receipt that documents the parties involved and the date and amount of funds handed over.

6. Organization of Records

The local's records were not maintained in any discernible order. While the LMRDA does not include specific requirements for the manner in which union records are kept, some organizational system may have aided the local in finding required records during the course of the audit. Additionally, records maintained in an organized manner may help the local in its preparation of the Form LM-3.

I want to extend my personal appreciation to IATSE Local 395 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: Rick Barthelot, President
Cal Hazelbaker, Business Manager