U.S. Department of Labor

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October 22, 2008

Mr. Kenneth Hooker, President
Machinists AFL-CIO Lodge 1833
8030 Old Cedar Avenue South, Suite 200
Bloomington, MN 55425-1215

LM File Number: 043-916
Case Number: [redacted]

Dear Mr. Hooker:

This office has recently completed an audit of Machinists Lodge 1833 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 Secretary-Treasurer Robert Bennek and Grand Lodge Auditor Rick Fischer on June 9, 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 Lodge 1833's 2007 records revealed the following recordkeeping violations:

1. Disposition of Property

   Lodge 1833 did not maintain an inventory of the watches it purchased, sold, and gave away. During 2007, Lodge 1833 purchased watches totaling $3,555. You advised that some of the watches were given away, some were re-sold, and that some were on hand at the end of the year. The value of any union property on hand at the beginning and end of each year must be reported in Item 28 of the LM-2 (Other Assets). An inventory or similar record of property on hand must be maintained to verify, clarify, and explain the information that must be reported in Item 28.

   The date and amount received from each sale of watches and other items must be reported in at least one union record.

2. Per Diem Payments

   Lodge 1833's practice is to pay its personnel a per diem of $15 per day when working on official union business either in the Minneapolis area or while working at the union office in Bloomington, MN, and pays other amounts for per diem (following Internal Revenue Service guidelines) when personnel travel outside the Minneapolis area on union business. Lodge 1833 requires its personnel to record per diem and other travel expenses on *Lost Time, Per Diem and Expenses* forms. However, a review of those forms revealed numerous instances in which personnel claimed per diem expenses but did not record the location traveled to in the *Per Diem City* column of the voucher. In the case of travel expenses, records must be retained that identify the date, amount, and business purpose of each expense. In the case of per diem expenses, the records must identify the location traveled to in order to verify, clarify, and support amounts reported in Column F of Schedules 11 (All Officers and Disbursements to Officers) and 12 (Disbursements to employees).

Based on your assurance that Lodge 1833 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(b), which requires labor organizations to file annual financial reports accurately disclosing their financial condition and operations. The Labor Organization Annual Report Form LM-2 filed by Lodge 1833 for fiscal year ending December 31, 2007, was deficient in that:

1. Acquire/Dispose of Property & Other Assets

   Item 15 (During the reporting period did your organization acquire or dispose of any assets in any manner other than by purchase or sale?) should have been answered, "Yes," because the union gave away watches totaling as much as $3,555 during the year. The type and value of any property received or given away must be identified in the additional information section of the LM report along with the identity of the recipient(s) or donor(s) of such property. For reporting purposes, each recipient need not be itemized. Recipients can be described by broad categories, if appropriate, such as "members" or "new retirees."

   The purchase of watches totaling $3,555 should have been reported in Schedule 17 (Contributions, Gifts, and Grants) and as noted on page 2 under *Distribution of Property*, the value of the watches on hand at the beginning and end of the year should have been reported in Item 28 of the LM-2 (Other Assets).

2. Interest

   Lodge 1833 improperly reported $37,133 in Item 40 (Interest). The amount of interest Lodge 1833 received during the year was $16.54. It appears that the figure reported in Item 40 was the investment accounts' monthly net earnings plus the change in the value of the investments. Net earnings and the change in the value of investments should not be reported as interest because the change in the value of investments is reflected in Schedule A (Assets).

3. Investments

   Lodge 1833 failed to report disbursements of $5,034 to UBS Financial Services in Item 60 (Purchase of Investments and Fixed Assets) and in Schedule 4 (Purchase of Investments and Fixed Assets) for the purchase of investments.

In addition, either the $304,770 figure reported as the cost of the investments at the start of the period (Item 26 , Column A) or the $258,700 figure reported as the cost of the investments at the end of the period (Item 26, Column B) was inaccurate.

4. Disbursements to Officers and Employees

The LM-2 instructions require unions to report gross salary payments to officers and employees in Column D of Schedule 11 (All Officers and Disbursements to Officers) and Schedule 12 (Disbursements to Employees), as well as all direct and most indirect disbursements that were necessary for conducting official business of the labor organization in Column (F) of Schedules 11 and 12.

Lodge 1833 reported Treasurer Robert Bennek's net rather than his gross salary in Schedule 11. Lodge 1833 failed to report numerous officers' meal allowances totaling more than $5,000 in Column F of Schedule 11. It appears that these allowances were erroneously reported in Schedules 15 through 19

Local 1833 erroneously reported payments made to employees Therese Gladhill and Audrey Senger in Schedule 20 (Benefits). Rather than providing insurance benefits, Local 1833 elected to reimburse employees Gladhill and Senger for the benefits they obtain on their own. Such payments are reportable as either salary in Column D of Schedule 12 or as an expense not necessary for conducting union business in column G of Scheduled 12.

Lodge 1833 has now filed an amended Form LM-2 that corrected the deficient items discussed above.

5. Failure to File Bylaws and LM-2

The audit disclosed a violation of LMRDA Section 201(b), which requires that the Labor Organization Annual Report Form LM-2 must be filed within 90 days after the end of the labor organization's fiscal year. Local 1833's fiscal year ended on March 31, 2007, but its LM-2 report was not filed until May 5, 2008.

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 1833 amended its bylaws in 2007, but did not file a copy with its LM report for that year.

Lodge 1833 has now filed a copy of its constitution and bylaws.

Other Issues

Per Diem Allowances

As previously discussed, union personnel who work out of the offices receive $15 per diem while working in-town, and the IRS allowable per diem when working out of town. Article V, Section 6 of the bylaws states that, "Any person working on local business away from their home city shall be paid IRS allowable per diem and hotel expense with proper receipts. Any person working on local business in their home city shall be paid fifteen dollars per diem for meals except (emphasis added) any person working a regularly schedule work shift at the local lodge in their home city, and no other reimbursement except as determined by the executive board"

A review of the *Lost Time, Per Diem and Expenses* revealed that in some instances it appears that $15 per diem was paid to Mr. Bennek, Ms. Sansom and you for different days for which the *Per Diem* city column is blank or lists "MSP" for Minneapolis. Mr. Bennek advised that officers did claim per diem on dates that they worked at the local lodge and that such payments were properly authorized. However, such payments would appear to be prohibited by Section 6 of the bylaws.

I would strongly recommend that Lodge 1833's current practice concerning per diem be recorded in Section 6 or some other union record. When the conditions under which per diem payments may be made has been recorded in union records, I would appreciate it if you would forward a copy of the record documenting the authorization to me at the above address.

I want to extend my personal appreciation to Machinists Lodge 1833 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,

[redacted]

Investigator

cc: Robert Bennek, Secretary-Treasurer