

U.S. Department of Labor

Employment Standards Administration
Office of Labor-Management Standards
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March 26, 2009

Mr. Joseph Heyrman, President
Laborers Local 330

LM File Number: 543-182
Case Number: [REDACTED]

886 Airport Road
Menasha, WI 54952

Dear Mr. Heyrman:

This office has recently completed an audit of Laborers Local 330 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, Secretary Treasurer Richard Geneske, Business Manager Anthony Marcelle, Office Manager Patti Leiternann, and outside accountant Greg Feucht on March 20, 2009, 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 330's 2008 records revealed the following recordkeeping violations:

1. Receipt Sources not Accurately Recorded

Local 330 failed to retain any record that identified the date and amount of some payments received from employers and contractors for initiation fees and dues check-off. Instead, the individual amounts withheld from members' wages are recorded into Local 330's dues tracking system (ASI program) as payments from the members.

Local 330 members who work for outside contractors are responsible for directly paying their monthly dues to Local 330. However, Mr. Marcelle stated that new members have an option to pay their initiation fee and first four months of dues by way of check-off through the contractor. For the new members' first four months of employment, the contractor withholds $\frac{1}{4}$ of the initiation fee (\$100) and one month of dues from the members' paycheck each month and remits that money to Local 330 by way of a check. Ms. Leitermann stated that she does not enter these receipts into ASI as a receipt from the contractor; rather she enters the receipt as received from the member. In addition, the check stubs from the contractor for these payments are not retained by the local.

Spancrete, one of Local 330's plant employers, withholds monthly dues from Local 330 members' paychecks and remits monthly check-off checks to Local 330 for members' dues. A review of the records revealed that Spancrete also sends additional checks for specific members' dues (for example, those who may not have had hours worked during the week dues were withheld) throughout the month. Ms. Leitermann also confirmed that these checks are not recorded as receipts from Spancrete in ASI; rather they are recorded as received from the individual member for whom dues were remitted by Spancrete.

Union receipts records must include an adequate identification of all money the union receives. The records should show the date and amount received, and the source of the money. As discussed during the exit interview, there are many ways to satisfy this recordkeeping requirement. While Local 330 may record payments in

ASI as payments from the member, additional records must be maintained that identify the payer of each payment of money.

2. Failure to Record some Interest Payments and Bank Fees

Local 330 failed to record some interest income received during 2008 in its records (Quick Books). The audit revealed that the amounts of interest recorded in the union's records for the checking account at [REDACTED] were the net result of the total interest posted to the account less the monthly bank fees associated with the checking account. Ms. Leitermann stated that the bank fees associated with checking account also were not recorded in the union's records.

Ms. Leitermann advised me that the LM-2 Report for Local 330 for the 2008 fiscal year will be prepared based on the information recorded in Quick Books. The purpose of Statement B (Receipts & Disbursements) of the Labor Organization Annual Report (Form LM-2) is to report the flow of cash in and out of your organization during the reporting period. Since Statement B reports all cash flowing in and out of your organization, "netting" is not permitted. "Netting" is offsetting of receipts against disbursements and reporting on the balance (net) as either a receipt or disbursement. The total amount of interest received during the fiscal year must be reported as a receipt in Item 40 (Interest) and bank fees must be reported as disbursements in Schedule 18 (General Overhead). Records must be retained to enable OLMS to verify the accuracy of the figures reported in these items.

3. Union Owned/Leased Vehicles

The union did not maintain records necessary to verify the accuracy of the information that is to be reported in Schedules 11 (All Officers and Disbursements to Officers) and 12 (Disbursements to Employees) of the LM-2.

Local 330 incurred expenses totaling at least \$20,000 for the upkeep and maintenance of union owned automobiles during 2008. However, adequate records documenting business versus personal use of the union vehicles were not maintained by Local 330.

The LM-2 instructions include specific rules for the reporting of automobile expenses. The union must report operating and maintenance costs for each of its owned or leased vehicles in Schedules 11 and 12 of the LM-2, allocated to the officer or employee to whom each vehicle is assigned.

For each trip they take using a union owned or leased vehicle, officers and employees must maintain mileage logs that show the date, number of miles driven, whether the trip was business or personal, and, if business, the purpose of the trip. Mileage logs maintained by Local 330 officers failed to adequately identify the business purpose of each trip. The mileage logs maintained by officers Geneske and Heyrman often identified only job sites or cities, but failed to provide additional information as to the purpose of the travel to each of those sites or cities.

4. Meal Expenses

Local 330 did not require officers and employees to submit itemized receipts for meal expenses totaling at least \$1,000. Signature receipts that identify the dates and amounts of the expenses along with notation explaining the business purpose were retained. However, the detailed receipts typically issued by restaurants identifying the items purchased were not. The union must maintain itemized receipts provided by restaurants to officers and employees. These itemized receipts are necessary to determine if such disbursements are for union business purposes and to sufficiently fulfill the recordkeeping requirement of LMRDA Section 206.

Based on your assurance that Local 330 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 Local 330 for fiscal year ending December 31, 2007 was deficient in the following areas:

1. Acquire/Dispose of Property

Item 15 (During the reporting period did your organization acquire or dispose of any assets in any manner other than by purchase or sale?) was accurately answered "yes", however the additional information supplied in Item 69 only identified that articles of clothing were periodically purchased and given to members. During 2007, Local 330 purchased and gave away to members over \$7,000 worth of stocking hats, gift cards totaling more than \$19,000 (including gift cards for turkeys, gas

cards, and gift cards for members attending more than five meetings during a year), Brewer tickets totaling more than \$500, as well as additional miscellaneous clothing items to stewards, officers, and employees.

The union must identify the type and value of any property received or given away in the additional information section of the LM report along with the identity of the recipient(s) or donor(s) of such property. The union does not have to itemize every recipient of such giveaways by name. The union can describe the recipients by broad categories if appropriate such as "members" or "new retirees."

2. Disbursements to Officers and Employees

Local 330 did not include some payments to or on behalf of officers and employees in Schedule 11 (All Officers and Disbursements to Officers) and Schedule 12 (Disbursements to Employees). It appears that the local erroneously reported these payments in Schedules 15 through 19.

During 2007, Local 330 directly reimbursed officers and agents more than \$700. In addition, payments totaling more than \$50,000 were made to Chase Visa for credit card purchases made by Local 330 business agents. However, Local 330 reported none of these expenses in Schedules 11 and 12 of the LM-2.

A review of the records revealed that many of the expenses incurred by agents using the union credit cards were related to the operation and upkeep of the union owned vehicles specifically assigned to each agent. These expenses, along with many others that were charged to the union credit cards, are required to be reported in Schedules 11 and 12.

The union must report in Column F of Schedules 11 and 12 (Disbursements for Official Business) direct disbursements to officers and employees for reimbursement of expenses they incurred while conducting union business. In addition, the union must report in Column F of Schedules 11 and 12 indirect disbursements made to another party (such as a credit card company) for business expenses union personnel incur. However, the union must report in Schedules 15 through 19 indirect disbursements for business expenses union personnel incur for transportation by public carrier (such as an airline) and for temporary lodging expenses while traveling on union business. The union must report in Column G (Other Disbursements) of Schedules 11 and 12 any direct or indirect disbursements to union personnel for expenses not necessary for conducting union business.

I am not requiring that Local 330 file an amended LM report for 2007 to correct the deficient items, but Local 330 has agreed to properly report the deficient items on all future reports it files with OLMS (including the report to be filed for 2008).

I want to extend my personal appreciation to Laborers Local 330 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: Richard Geneske, Secretary Treasurer
Tim Haefs, Trustee
Kelly Buss, Executive Board