

U.S. Department of Labor

Employment Standards Administration
Office of Labor-Management Standards
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March 29, 2007

Mr. William Berger, President
American Federation of Musicians
Local 21
2316 Baynard Blvd.
Wilmington, DE 19802

Re: Case Number: [REDACTED]

Dear Mr. Berger:

This office has recently completed an audit of Musicians Local 21 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 Treasurer Glenn Finnan on March 23, 2007, 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 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.

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.

The audit of Local 21's 2005 records revealed the following recordkeeping violations:

1. Receipt Records

Local 21 failed to maintain adequate documentation of direct pay members dues payments and late fees. Bank deposit slips were the only records of direct pay members dues payments and late fees. The deposit slips did not provide the name of the payer, the date of payment and the individual amount received from each member. Adequate receipt records must show the exact date the money was received, the identity of the source of the money, and the individual amount received from each source. During the audit Local 21 agreed to remedy this issue by maintaining a receipts journal. The journal will detail the source of the funds, the date funds are received and the amount and purpose of each receipt.

2. Office and Administrative Expenses

Local 21 failed to retain adequate documentation of all office and administrative expenses. For example the January - June 2005 Delmarva Power, Verizon, AT&T long distance and Verizon advertising bills were missing from union records. During the audit OLMS contacted the various utility providers and received copies of the missing invoices. All records received in the course of union business must be retained. This includes, in the case of disbursements, the retention of original bills, invoices and receipts. During the audit Local 21 agreed to remedy this issue by maintaining all required disbursement records.

3. Salary Authorization

Local 21 failed to maintain the meeting minutes that authorized officer salaries. A record such as meeting minutes or another appropriate document must be maintained verifying the current salary authorized by the entity or

individual in the union with the authority to establish salaries. Records that authorize officer and employees salaries must be maintained as long as the salary is in effect. I recommend that Local 21 document the authorized salary amounts in its bylaws or record them in meeting minutes or some other internal document (following discussion in the appropriate membership and/or executive board meeting). When the authorized salary amounts have 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.

As agreed, provided that Local 21 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. The Labor Organization Annual Report (Form LM-3) filed by Musicians Local 21 for fiscal year ending December 31, 2005, was deficient in the following areas:

1. Officer and Employee Expenses

Local 21 failed to report disbursements to officers for meals in Item 24(e) (All Officers and Disbursements to Officers Allowances and Other Disbursements). Such payments appear to have been erroneously reported in Item 54 (Other Disbursements)

All direct and indirect disbursements to officers and employees other than salary, including allowances, disbursements which were necessary for conducting the official business of your organization, and disbursements essentially for the personal benefit of the officer and not necessary for conducting official business of your organization must be reported in section 24(e). 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. An "indirect disbursement" to an officer is a payment 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 Expense).

2. Officer and Employee Salaries

Local 21 failed to report the correct gross salary amounts for officers in Item 24 (d) (All Officers and Disbursements to Officers Gross Salary). Item 24 (d) should contain the gross salary of each officer (before tax withholdings and other payroll deductions). The gross salary entry should also include disbursements for lost time.

OLMS is not requiring that Local 21 file an amended LM-3 report for 2005 to correct the deficient items. As agreed during the exit interview, Local 21 will correctly report all disbursements and receipts on the LM-3 in the future including the LM-3 for the year ending December 31, 2006.

Other Issues

The CAP disclosed the following other issues that occurred during the year ending December 31, 2005:

1. Use of Signature Stamp

During the audit, you advised that during the audit year it was Local 21's practice for former secretary treasurers [REDACTED] to use a signature stamp for your signature. You also indicated that the former secretary treasurers were the only officers that reviewed the checks before they were issued. During the exit interview you informed me that the signature stamp was no longer being utilized and that all checks will be reviewed and signed by two officers. Having two signatures is an effective internal control of union funds. Its purpose is to attest to the authenticity of a completed document already signed. However, utilizing a signature stamp does not allow a second party to attest to the authenticity of the completed check, and completely circumvents and undermines the purpose of the countersignature requirement. I recommend that Local 21 continues its new policy of having two officers sign and review all checks.

I want to extend my personal appreciation to Musicians Local 21 for the cooperation and courtesy extended during this compliance audit. I strongly recommend that you

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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: Glenn Finnan, Treasurer