



April 12, 2016

Mr. Floyd "Randy" Hoerz, Treasurer
Communications Local 9412
29868 Mission Blvd.
Hayward, CA 94544

Case Number: 530-6006750
LM Number: 019449

Dear Mr. Hoerz:

This office has recently completed an audit of Communications Local 9412 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 Executive Officer Art Benham on April 18, 2016, 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 9412's 2015 records revealed the following recordkeeping violations:

1. Meal Expenses

Local 9412 did not require officers and employees to submit a descriptive receipt for a meal expense totaling at least \$180. 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.

Local 9412 records of meal expenses did not always include written explanations of union business conducted or the names and titles of the persons incurring the restaurant charges. The executive board incurred a \$180 meal expense but did not include the purpose or list the attendees. Union records of meal expenses must include written explanations of the union business conducted and the full names and titles of all persons who incurred the restaurant charges.

2. Lost Wages

Local 9412 did not retain adequate documentation for lost wage reimbursement payments to President Art Behnam and Executive Vice-President Keith Gibbs for any of the 26 pay periods. The union must maintain records in support of lost wage claims that identify each date 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 9412 retained payroll vouchers completed by the officers detailing the duties and hours spent on union business but did not retain documentation to show that there were lost wages from their employer.

During the exit interview, I provided a compliance tip sheet, *Union Lost Time Payments*, that contained a sample of an expense voucher Local 9412 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. Information not Maintained in Meeting Minutes

During the audit, Mr. Hoerz advised OLMS that the membership authorized officer salary and allowances ten years ago. However, Local 9412 maintained no minutes of that meeting. Minutes of all membership or executive board meetings must report any disbursement authorizations made at those meetings.

4. Lack of Salary Authorization

Local 9412 did not maintain records to verify that the salaries reported in Schedules 11 (All Officers and Disbursements to Officers) and 12 (Disbursements to Employees) of the LM-2 was the authorized amount and therefore was 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.

Based on your assurance that Local 9412 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 9412 for the fiscal year ended September 30, 2015, was deficient in the following areas:

1. Disbursements to Officers and Employees (LM-2)

Local 9412 did not include some reimbursements to officers and employees / payments to officers and employees totaling at least \$1,000 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. Also, Local 9412 did not include salary paid to the Office Manager for additional duties totaling over \$2,500.

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.

2. Failure to Itemize Disbursement or Receipt (LM-2)

Local 9412 did not properly report a "major" transaction(s) in Schedule(s) 15-18. A "major" transaction includes any individual transaction of \$5,000 or more or total transactions to or from any single entity or individual that aggregate to \$5,000 or more during the reporting period and which the local cannot properly report elsewhere in Statement B. The audit found that AT&T was paid over \$7,000 during the audit years but there was no Itemization Page for the payee.

3. Failure to File Bylaws

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 9412 amended its constitution and bylaws in 2014, but did not file a copy with its LM report for that year.

As agreed, Local 9412 will file a copy of its current constitution and bylaws with OLMS when it files its next LM-2.

I am not requiring that Local 9412 file an amended LM report for 2015 to correct the deficient items, but Local 9412 has agreed to properly report the deficient items on all future reports it files with OLMS.

I want to extend my personal appreciation to Communications Local 9412 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,

A solid black rectangular box redacting the signature of the sender.

Senior Investigator

cc: Mr. Michael Arata, CPA