



September 21, 2010

Mr. Daniel Minton, Secretary Treasurer
Laborers AFL-CIO
Local 499
3080 Platt Road
Ypsilanti, MI 48108-1808

Case Number: [REDACTED]
LM Number: 543601

Dear Mr. Minton:

This office has recently completed an audit of Laborers Local 499 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 by Investigator [REDACTED] during the exit interview with you and Local 499 President Ronnie Malcolm on May 26, 2010, 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 499's 2008 records revealed the following recordkeeping violations:

1. Credit Card Expenses

Local 499 did not retain adequate documentation for Union Service Plus (USP) credit card expenses incurred by union officers and employees totaling at least \$1,831.33. For example, a charge for \$326.10 was made at Walgreens in Vallejo, California, but the union did not maintain any invoices or receipts for the charge or identify the purpose of the charge in any of its disbursements records.

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. Lack of Salary Authorization

Local 499 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 499 will retain adequate documentation in the future, OLMS will take no further enforcement action at this time regarding the above violations.

Reporting Violation

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 499 for the fiscal year ended December 31, 2008, was deficient in the following areas:

Disbursements to Officers and Employees

The union erroneously grouped all disbursements, including reimbursed expenses, to officers and employees in Column (D) of Schedule 11 (All Officers and Disbursements to Officers) and Schedule 12 (Disbursements to Employees). Local 499 must report in Column (D) the gross salary paid to officers and employees (before tax withholdings and other payroll deductions), including disbursements for "lost time" or time devoted to union activities.

The total allowances made by direct and indirect disbursements to each officer or employee on a daily, weekly, monthly, or other periodic basis must be reported in Column (E). A "direct disbursement" to an officer or employee is a payment made to an officer or employee in the form of cash, property, goods, services, or other things of value. An "indirect disbursement" to an

officer or employee 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 or employee.

Local 499 must report in Column (F) direct disbursements to officers and employees for reimbursement of expenses they incurred while conducting union business. See the instructions for Schedule 11 for a discussion of certain direct disbursements to officers that do not have to be reported in Schedule 11. Also include in Column (F) travel advances that are not considered loans as explained in the instructions for Schedule 2 (Loans Receivable). In addition, the union must report in Column (F) indirect disbursements made to another party for business expenses union personnel incur. However, the union may 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 (room rent charges only) while traveling on union business.

Enter all other direct and indirect disbursements to each officer or employee in Column (G). Include all disbursements for which cash, property, goods, services, or other things of value were received by or on behalf of each officer and were essentially for the personal benefit of the officer and not necessary for conducting official business of the labor organization.

The LM-2 instructions provide two methods for reporting automobile-related expenses. The union must report in Schedules 11 and 12 direct and indirect disbursements for the operation and maintenance of union-owned and -leased vehicles and the operation and maintenance of vehicles owned by union personnel (including gasoline, repairs, and insurance). The union may divide the expenses and report them in Columns (F) and (G) based on miles driven for union business (supported by mileage logs) compared with miles driven for personal use.

Alternatively, rather than allocating the expenses between Columns (F) and (G), if 50 percent or more of an officer's or an employee's use of a vehicle was for official business, the union may report all of the expenses relative to the vehicle assigned to the officer or employee in Column (F) of Schedule 11 or 12 with an explanation in Item 69 (Additional Information) that the officer or employee used the vehicle part of the time for personal business. Similarly, if a vehicle assigned to an officer or employee was used less than 50 percent of the time for business, all of the expenses relative to that vehicle may be reported in Column (G) with an explanation in Item 69 that the officer or employee used the vehicle partly for official business.

Local 499 did not correctly report on the LM-2 the amount it withholds from an officer's salary for the officer's personal use of a union-owned or -leased automobile. The amount withheld from the officer's salary for the year should be listed as a deduction on Line 8 of Schedule 11. There are two ways that the union can report the amount withheld in Statement B (Receipts and Disbursements). If the union issues a check to itself for the amount withheld, that amount should be included in Schedule 14 and Item 48 (Other Receipts). On the disbursements side, the amount withheld would be included in Item 67a (Total Withheld) and Item 67b (Less Total Disbursed). The union may also wish to explain in Item 69 that the officer pays a certain amount each month for the personal use of the automobile.

If the union does not write a check to itself, no receipt would be reported. On the disbursements side, the amount withheld would be included in Item 67a, while nothing would be included in Item 67b because this withholding was not disbursed. The amount withheld would be included in Item 67c (Total Withheld But Not Disbursed), which is subtracted from Item 66 (Cash Disbursements Subtotal). The union should also include an explanation in Item 69 linked to Item 67a, such as: "Included in the total withheld is \$2,400 that was withheld from Officer A's salary and retained by the union as reimbursement for the personal use of a union vehicle by Officer A."

I am not requiring that Local 499 file an amended LM report for 2008 to correct the deficient items, but Local 499 has agreed to properly report the deficient items on all future reports it files with OLMS.

Other Issue

The audit disclosed that Local 499 did not record all interest and other miscellaneous credits in the QuickBooks receipts journal. Also, certain other receipts were inaccurately recorded. Conversely, Local 499 did not record all checks and electronic debits in the QuickBooks disbursements journal. Such journals must contain accurate and complete entries if the union utilizes them to compile its LM report. In addition, maintaining the integrity of the journals is important because they form the basis of the financial reports presented at Local 499 monthly membership meetings.

I want to extend my personal appreciation to Laborers Local 499 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,

Ian Burg
District Director

cc: Ronnie Malcolm, President