

U.S. Department of Labor

Employment Standards Administration
Office of Labor-Management Standards
Philadelphia District Office
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Philadelphia, PA 19106
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November 12, 2009

Mr. Michael Opshinsky, Financial Secretary/Treasurer
Painters AFL-CIO
Local 218
1044 Oak Street
Scranton, PA 18508

LM File Number 029-015
Case Number: [REDACTED]

Dear Mr. Opshinsky:

This office has recently completed an audit of Painters Local 218 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 on October 22, 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 Violation

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, labor organizations must maintain all records used or received in the course of union business.

For disbursements, this includes not only the retention of 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 218's 2008 records revealed the following recordkeeping violation:

1. Office and Administrative Expenses

Local 218 did not retain adequate documentation for monthly rent payments of \$35 made to IBEW Local 81 or \$200 spent for a Christmas Party.

You assured me that all receipts for expenses incurred while conducting union business will be annotated with detailed information including the reason and union member(s) incurring the expense.

2. Lack of Salary Authorization

Local 218's officers receive a stipend for performing their duties. The total amount of the stipends received by each officer was reported in Item 24 (E) (All Officers and Disbursements to Officers - Allowances and Other Disbursements) of the Form LM-3 for fiscal year ending December 31, 2008. However, Local 218 failed to maintain records to verify the stipends. The union must keep a record, such as meeting minutes, to show the current stipend(s) authorized by the entity or individual in the union with the authority to establish the stipends.

You stated that this issue will be addressed at the next membership meeting and noted in the meeting minutes. The minutes will be maintained in the union file until such time there is a change in the salary amounts. A copy of these minutes must be sent to the Office of Labor Management Standards Philadelphia District Office, 170 South Independence Mall West, Suite 760 West, Philadelphia, PA 19106.

Based on your assurance that Local 218 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 the 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 Local 218 for fiscal year ending December 31, 2008, was deficient in the following area:

Disbursement to Officers

The stipends received by each officer were reported in Item 24(E) (All Officers and Disbursements to Officers-Allowances and Other Disbursements) of the Form LM-3. These figures must be reported as salaries in Item 24(D) (All Officers and Disbursements to Officers-Gross Salary (before taxes and other disbursements)).

I am not requiring that Local 218 file an amended LM report for 2008 to correct the deficient item as you have agreed to properly report the deficient item on all future reports filed with OLMS.

I want to extend my personal appreciation to Painters Local 218 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: James Merrill, President