

U.S. Department of Labor

Office of Labor-Management Standards
Chicago District Office
Federal Office Building
230 South Dearborn Street, Suite 774
Chicago, IL 60604
(312) 596-7160 Fax: (312) 596-7174



August 25, 2015

Mr. Frank Sustersic, Treasurer - Financial Secretary
Painters Local 273
10320 S. 75th Avenue
Palos Hills, IL 60465

Case Number: 310-6003146 [REDACTED]
LM Number: 025-961

Dear Mr. Sustersic:

This office has recently completed an audit of Painters Local 273 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 August 20, 2015, 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 273's 2014 records revealed the following recordkeeping violations:

1. Failure to Record Receipts and Disbursements – Petty Cash

Local 273 did not maintain any record to reflect petty cash activity, which was consistently reported as having a \$50.00 balance on quarterly financial statements. However, you acknowledge using the petty cash fund to reconcile or accommodate approximately 24 under payments of members' quarterly dues payments during the fiscal year. You stated that the petty cash fund is replenished by members' cash payments during the fiscal year.

Union receipts records must include an adequate identification of all money the union receives and disburses. The records should show the date and amount received, and the source of the money. Petty cash is effectively a union cash account, requiring that you apply the same accounting standards as all other union accounts.

2. Receipts Improperly Recorded

Entries in Local 273's duplicate receipts journal did not always reflect the actual amount paid by members. Approximately 60 times during the fiscal year, members paid the incorrect amount for their quarterly dues. Instead of documenting the amount of money actually collected from the members, you completed the duplicate receipts to reflect the amount of dues that was owed. You acknowledged mailing dues overpayments back to members and temporarily covering underpayments with funds drawn from petty cash.

Union receipts records must contain the following basic information: the source of the funds; the amount received; the purpose of each payment; and the date the payment was received. The receipt is required to verify, explain, or clarify amounts required to be reported in Statement B (Receipts and Disbursements) of the LM-3. The LM-3 instructions for Statement B state that the labor organization must record receipts when it actually receives money and disbursements when it actually pays out money. Failure to record the actual amount of monies received will result in the union incorrectly reporting the total receipts and disbursements handled for the fiscal year.

3. Inventory of Assets

Local 273 did not maintain an inventory list or record for Jewel gift cards on hand during fiscal year ended December 31, 2014. The audit disclosed that the union had an unknown number of surplus Jewel gift cards on hand from the 2013 Christmas party. You stated that you did not know how many cards the union had at the beginning or end of the fiscal year as the cards were in the possession of the recording secretary. Union assets, including gift cards, must be accounted for through a union record such as an inventory list.

Based on your assurance that Local 273 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 LM-3 filed by Local 273 for the fiscal year ended December 31, 2014, was deficient in the following areas:

1. Failure to Report Petty Cash Activity as Receipts and Disbursements

Local 273 did not properly report activity of the petty cash fund as discussed above in Schedule B. As detailed on page 13 of the LM-3 instructions, the purpose of Schedule B is to report the flow of cash in and out of your organization during the reporting period. Netting, or the offsetting of receipts against disbursements and reporting only the balance (net), is not permitted.

The effect of this violation on Schedule B, Receipts and Disbursements, cannot be quantitated because no records were maintained. However, you acknowledge that the petty cash fund was used approximately 60 times to accommodate under and over payments of members' quarterly dues payments during the fiscal year.

2. Reporting of Assets, Gift cards

The union did not report the value of property on hand at the beginning and end of the year in Item 30 (Other Assets) of the LM-3. As discussed above, in early 2014 the union had surplus Jewel gift cards on hand from the 2013 Christmas party which must be recorded through a union inventory and on the annual financial report, Form LM-3. The surplus cards were wholly or in part distributed at the holiday party in December 2014. Distribution of the union assets should be reported on the LM-3 report on line 54, Other Disbursements.

I am not requiring that Local 273 file an amended LM report for 2014 to correct the deficient items, but Local 273 has agreed to properly report the deficient items on all future reports it files with OLMS.

Other Issues

1. Compensation Policy

During the fiscal year, you received compensation for serving as both the financial secretary and the treasurer. The union bylaws are silent on how individuals should be compensated for holding multiple positions. 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.

2. Office and Administrative Expense Policy

As I discussed during the exit interview with you, the audit revealed that Local 273 pays a monthly office and administrative expense for an AT&T phone line in your home office. Although the executive board reviews and approves the monthly bills, the union does not have a clear policy regarding the types of expenses personnel may claim for union business. OLMS recommends that unions adopt written guidelines specifying which expenses or services are required as the cost of conducting business.

I want to extend my personal appreciation to Painters Local 273 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,

[REDACTED]
Senior Investigator

cc: Mr. Dennis Nickon, President
Mr. Richard Bieser, Recording Secretary