



September 19, 2011

Mr. Paul Varone, President
Painters Local 402

[REDACTED]
Winthrop, MA 02152

Case Number: [REDACTED]

LM Number: 028-108

Dear Mr. Varone:

This office has recently completed an audit of [REDACTED] 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, Treasurer Dan Mulkern, and Financial Secretary Shawn Boucher on September 15, 2011, 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 402's records for the fiscal year ended June 30, 2010 revealed the following recordkeeping violation:

Disposition of Property

Local 402 did not maintain an inventory of hats, jackets, and other property it purchased, sold, or gave away. The union must report the value of any union property on hand at the beginning and end of each year in Item 30 (Other Assets) of the LM-3. The union must retain an inventory or similar record of property on hand to verify, clarify, and explain the information that must be reported in Item 30.

The union must record in at least one record the date and amount received from each sale of union hats, jackets and other items or, if the property was given away, the identity of the recipients.

Based on your assurance that Local 402 will retain adequate documentation in the future, OLMS will take no further enforcement action at this time regarding the above violation.

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-3) filed by Local 402 for the fiscal year ended June 30, 2010, was deficient in the following areas:

1. Acquire/Dispose of Property

Item 13 (During the reporting period did your organization acquire or dispose of any assets in any manner other than by purchase or sale?) should have been answered, "Yes," because the union gave away shirts and mugs by raffle at monthly membership meetings during the audit year. Additionally, Local 402 should have reported the value of all merchandise on hand at the beginning and end of the fiscal year in Items 30(A) and (B) (Other Assets). The union must identify the type and value of any property received or given away in the additional information section of the LM report along with the identity of the recipient(s) or donor(s) of such property. The union does not have to itemize every recipient of such giveaways by name. The union can describe the recipients by broad categories if appropriate such as "members" or "new retirees." In addition, the union must report the cost, book value, and trade-in allowance for assets that it traded in.

2. Disbursements to Officers

Local 402 did not include some reimbursements to officers totaling at least \$100 in the amounts reported Item 24 (All Officers and Disbursements to Officers). It appears the union erroneously reported these payments in Item 48 (Office and Administrative Expense) or Item 54 (Other Disbursements).

The union must report most direct disbursements to Local 402 officers and some indirect disbursements made on behalf of its officers in Item 24. 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. See the instructions for Item 24 for a discussion of certain direct disbursements to officers that do not have to be reported in Item 24. An "indirect disbursement" to an officer 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. 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).

3. Cash Reconciliation

It appears that the cash figures reported in Item 25 (Cash) and Item 44 (Total Receipts) are not the figures according to Local 402's books after reconciliation to the bank statements. It appears that the cash figures do not account for deposits that were booked by the union at the end of the fiscal year, but deposited in the subsequent fiscal year. The instructions for Statement B (Receipts and Disbursements) explain that "receipts must be recorded when money is actually received by the labor organization" and the instructions for Item 25 state that the union should obtain account balances from its books as reconciled to the balances shown on bank statements. Cash assets reported in Item 25 should include "all cash on hand, such as undeposited cash, checks, and money orders" in addition to all cash on deposit.

4. 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 402 amended its constitution and bylaws in 2010, but did not file a copy with its LM report for that year.

Local 402 has now filed a copy of its constitution and bylaws.

Local 402 must file an amended Form LM-3 for the fiscal year ended June 30, 2010, to correct the deficient items discussed above. I provided you with a blank form and instructions, and advised you that the reporting forms and instructions are available on the OLMS website (www.olms.dol.gov). The amended Form LM-3 should be submitted to this office at the above address as soon as possible, but not later than October 6, 2011. Before filing, review the report thoroughly to be sure it is complete, accurate, and signed properly with original signatures.

Other Issues

1. Cell Phone Expense Policy

As I discussed during the exit interview with you, Treasurer Mulkern, and Financial Secretary Boucher, the audit revealed that Local 402 does not have a clear policy regarding

the amount of cell phone expenses that will be reimbursed to officers. President Varone indicated that, in the past, he has typically authorized a certain amount of allowable expenses on a case by case basis, a power that is granted to him through the bylaws. OLMS recommends that unions adopt written guidelines to clarify and standardize the local's reimbursement policy.

2. Nature of Receipts

Members of Local 402 pay dues directly to the union by cash, check, and money order. The financial secretary records dues payments in the union's receipts journal with the date, amount, and source or the receipt; however, he does not indicate the nature of the currency received. In light of the union's bank-by-mail procedure, which necessitates the conversion of all cash receipts into a single check by the union's treasurer, OLMS recommends that the local maintain a detailed record describing the nature of the dues when received by the financial secretary in order to improve the internal financial controls and more clearly track the transfer of cash from the union's officers to the bank.

3. Vouchers

Local 402 maintains vouchers containing the date, amount, payee, and description of each union expenditure with appropriate signatures authorizing each disbursement. The vouchers, however, do not contain check numbers. OLMS recommends that Local 402 include the relevant check number for each disbursement authorized on the union vouchers, in order to strengthen the integrity of the authorization on the voucher by linking it to a specific disbursement.

I want to extend my personal appreciation to Painters Local 402 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]
Investigator

Cc: Mr. Daniel Mulkern, Treasurer
Mr. Shawn Boucher, Financial Secretary