



September 28, 2012

Mr. Edward Lowdenslager, President
Communications Workers, AFL-CIO, Local 4773
210 State Street
La Porte, IN 46350

Case Number: [REDACTED]
LM Number: 036-885

Dear Mr. Lowdenslager:

This office has recently completed an audit of Communications Workers, AFL-CIO, Local 4773 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 September 26, 2012, 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.

Record Keeping 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 4773's records for fiscal year ending September 30, 2010, revealed the following recordkeeping violations:

1. Failure to Record Receipt in Appropriate Fiscal Year

Local 4773 failed to record a dues check-off rebate from the Communications Workers of America in the amount of \$4,947.39 in the appropriate fiscal year. This particular dues check-off rebate was directly deposited into Local 4773's checking account on September 29, 2010, but the receipt was not recorded in Local 4773's receipt records until October 2010. The LM-3 instructions for Statement B state that the labor organization must record receipts when it actually received money and disbursements when it actually pays out money. In this instance, the failure to record the date money was received resulted in the union reporting a receipt in a different fiscal year than when it was actually received.

2. Lack of Salary Authorization

Local 4773 did not maintain records to verify that your salary reported in Item 24 (All Officers and Disbursements to Officers) of the LM-3 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.

3. Lack of Expense Supporting Documentation

Local 4773 failed to retain supporting documentation for 32 disbursements totaling approximately \$3,288.10 that were made from the three Area Fund checking accounts. Examples of disbursements from the Area Fund checking account that lacked adequate supporting documentation include: (6) cash withdrawals totaling \$1,350.00, (2) disbursements by check totaling \$150.00 for rental of meeting space and (2) disbursements by check totaling \$120.00 for mileage reimbursements.

Local 4773 also failed to retain adequate supporting documentation for reimbursed expenses incurred by you totaling at least \$66.16. For example, you were reimbursed \$46.16 for automotive maintenance supplies, but only maintained a screen print of account activity from a personal bank account that detailed the purchase when a detailed receipt from the vendor should have been maintained.

As 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.

Based on your assurance that Local 4773 will retain adequate documentation in the future, OLMS will take no further enforcement actions 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-3) filed by Local 4773 for the fiscal year ended September 30, 2010, was deficient in the following areas:

1. Area Fund Checking Account Balances

Local 4773 failed to report the beginning of the year and end of the year checking account balances in Item 25 (Cash) for three checking accounts held in the name of the three areas that comprise Local 4773: Portage/Valparaiso/La Porte Area, Elkhart/Wabash/Angola Area, and Lafayette/Logansport/Greencastle Area. The cumulative beginning bank balance of all three checking accounts as of October 1, 2009 was \$17,058.77 and the cumulative ending balance as of September 30, 2010 was \$17,259.05. The LM-3 instructions for Item 25 (Cash) state that the checking account balances reported should be obtained from your organization's books as reconciled with the balances shown on bank statements.

2. Dues Receipts

Local 4773 reported \$73,626.00 in Item 38 (Dues Receipts) despite actually receiving \$78,274.00 in check-off dues rebates from the Communications Workers of America during the fiscal year. Part of the difference can be attributed to the \$4,947.39 check-off dues rebate that was directly deposited into the Local 4773 general fund checking account on September 29, 2010, but was not recorded in Local 4773's receipt records until October 2010. As noted above, the LM-3 instructions require that receipts must be recorded in Statement B of the LM-3 report when money is actually received by the labor organization.

3. Transfers Recorded as Disbursements

Local 4773 reported 15 transfers totaling \$3,948.75 from the Local 4773 general fund checking account to the three Area Fund checking accounts in Statement B (Cash Disbursements) of the LM-3. The LM-3 instructions state that the purpose of Statement B is to report the flow of cash in and out of your organization during the reporting period. Transfers between separate union bank accounts such as the Local 4773 general fund and the three Area Fund checking accounts do not represent the flow of cash in and out of your organization.

4. Disbursements to Officers

Local 4773 did not include some reimbursements to officers totaling at least \$3,576.08 in the amounts reported in Item 24 (All Officers and Disbursements to Officers). It appears that the union erroneously reported these payments in Item 48 (Office and Administrative Expenses).

The union must report most direct disbursements to Local 4773 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).

5. Area Fund Disbursements

Local 4773 failed to report \$3,288.10 in disbursements made from the three Area fund checking accounts in Statement B (Cash Disbursements) of the LM-3. The LM-3 instructions for Statement B states that disbursements must be recorded when money is actually paid out by the labor organization.

6. Professional Fees

Local 4773 miscategorized three disbursements totaling \$1,835.00 to a public accounting firm in either Item 48 (Office and Administrative Expense) or Item 54 (Other Disbursements). The LM-3 instructions state that disbursements for "outside" legal and other professional services must be reported in Item 48 (Professional Fees).

7. Number of Members

Local 4773 reported 196 members in Item 19 (Number of Members) of the LM-3 report. A review of two Local/PU Dues Summary reports from the Multiple Union Membership System revealed that Local 4773 only had 162 active members as of September 2010. The LM-3 instructions state that all categories of members who pay dues should be recorded in Item 19 with the exception of nonmember employees who make payments in lieu of dues as a condition of employment under a union security provision in a collective bargaining agreement.

Local 4773 must file an amended LM-3 report for fiscal year ending September 30, 2010 to correct the deficient items discussed above. I encourage Local 4773 to complete, sign, and file its report electronically using the Electronic Forms System (EFS) available at the OLMS website at www.olms.dol.gov. Reporting forms and instructions can be downloaded from the website, if you prefer not to file electronically. The amended Form LM-3 should be filed electronically no later than October 19, 2012, or submitted to this office at the above address by the same date. Before filing, review the report thoroughly to be sure it is complete and accurate. Paper reports must be signed with original signatures.

Other Issues

During the audit, President Lowdenslager advised that it is Local 4773's practice for Secretary Marilyn Hill to stamp your signature and Secretary-Treasurer Rick Swager's signature on all union checks. Lowdenslager indicated that no one but Hill reviews the checks before they are issued. Article XII of Local 4773's bylaws requires that checks be signed by the president and secretary-treasurer. The two signature requirement is an effective internal control of union funds. Its purpose is to attest to the authenticity of a completed document already signed. However, the use of a signature stamp for both signers does not attest to the authenticity of the completed check, and negates the purpose of the two signature requirement. OLMS recommends that Local 4773 review these procedures to improve internal control of union funds.

I want to extend my personal appreciation to Communications Workers Local 4773 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: Mr. Kevin Kaiser, Secretary-Treasurer