

U.S. Department of Labor

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May 11, 2009

Mr. Alan Arthur, Business Agent
Stage and Picture Operators AFL-CIO
Local 39
3020 Lausat Street
Metairie, LA 70001

LM File Number 031-437

Case Number: [REDACTED]

Dear Mr. Arthur:

This office has recently completed an audit of Stage and Picture Operators Local 39 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, Keith Christopher, and Sara Fanelli on May 7, 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 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 39's 2007 records revealed the following recordkeeping violations:

1. General Reimbursed and Credit Card Expenses

Local 39 did not retain adequate documentation for reimbursed expenses and credit card expenses incurred by Henry Guzman totaling at least \$1,220.65. For example, 29 out of 46 receipts for purchases totaling \$1,093.70 made with Local 39's American Express credit card were not kept and attached to monthly American Express statements in disbursement records. Henry Guzman was also reimbursed \$126.95 for working on Local 39's website, but no documentation was retained to support the disbursement.

Additionally, Local 39 did not retain any documentation for 25 of the 86 checks written from the union's hiring hall checking account during the audit year totaling at least \$14,148.60.

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. Failure to Record Receipts

Local 39 did not record in its receipts records some interest earned on savings account funds totaling at least \$142.02. For example, interest earned in December 2007 on the savings account balance was not recorded in the union's receipts records. Union receipts records must include an adequate identification of all

money the union receives. The records should show the date and amount received, and the source of the money.

3. Receipt Dates not Recorded

Entries in Local 39's receipts journal in QuickBooks reflect the date the union deposited money, but not the date money was received. Union receipts records must show the date of receipt. The date of 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 date money was received could result in the union reporting some receipts for a different year than when it actually received them.

Based on your assurance that Local 39 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 (Form LM-3) filed by Local 39 for fiscal year ending December 31, 2007, was delinquent, and deficient in the following areas:

1. Disbursements to Officers

Local 39 did not report the names of some officers and the total amounts of payments to them or on their behalf in Item 24 (All Officers and Disbursements to Officers). The union must report in Item 24 all persons who held office during the year, regardless of whether they received any payments from the union.

The union must report most direct disbursements to Local 39 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).

2. Cash Reconciliation

It appears that the cash figures reported in Item 25 are not the cash figures according to the union's books after reconciliation to the bank statements. 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.

3. Other Reporting Deficiencies (LM-3)

Certain other audit year LM-3 entries were incorrect, including, but not limited to, misreported investment and fixed asset purchases (Item 52); misreported office and administrative expenses (Item 48); and misreported other disbursements (Item 54).

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 39 amended its constitution and bylaws some time in the 1990's, but did not file a copy with its LM report for that year.

Local 39 has now filed a copy of its constitution and bylaws.

5. Delinquent Reports

Local 39 has been delinquent in filing form LM-3 for at least the last 10 consecutive years. The president and treasurer or the corresponding principal officers of the labor organization required to sign Form LM-3 are personally responsible for its filing and accuracy. Under the LMRDA, officers are subject to criminal penalties for willful failure to file a required report. The LM report is due to OLMS within 90 days after the end of the labor organizations' fiscal year. For example, Local

39's fiscal year ends on December 31st therefore, its LM report must be received by OLMS no later than March 30th to be considered timely filed.

I am not requiring that Local 39 file an amended LM report for 2007 to correct the deficient items, but Local 39 has agreed to properly report the deficient items on all future reports it files with OLMS. I am requiring, however, that Local 39 file their delinquent LM-3 for fiscal year ending December 31, 2008 as soon as possible, but not later than May 28, 2009. Before filing, review the report thoroughly to be sure it is complete, accurate, and signed properly with original signatures.

Other Issues

1. Duplicate Receipts

Members of Local 39 pay dues directly to the union. The business agent records dues payments in the union's FoxPro system, but the local does not issue receipts to dues payers. OLMS recommends that Local 39 use a duplicate receipt system where the union issues original pre-numbered receipts to all members who make payments directly to the union and retains copies of those receipts. A duplicate receipt system is an effective internal control because it ensures that a record is created of income which is not otherwise easily verifiable. If more than one duplicate receipt book is in use, the union should maintain a log to identify each book, the series of receipt numbers in each book, and to whom each book is assigned.

2. Use of Signature Stamp

During the audit, you advised that during the 2007 audit year it was Local 39's practice for Business Agent Henry Guzman to sign all union checks and to stamp your signature as President on union checks. You indicated that no one but Henry Guzman reviewed the checks before they were issued. Although Local 39's bylaws do not require that checks be signed by the president and treasurer or business agent, Local 39 officers advised that two signatures are required on all checks. 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 the second signer does not attest to the authenticity of the completed check, and negates the purpose of the two signature requirement. OLMS recommends that Local 39 review these procedures to improve internal control of union funds.

3. Fixed Asset Inventory

The audit revealed that Local 39 does not maintain a fixed asset inventory. A fixed asset inventory should be maintained to identify each asset, the value of each asset and to document the purchase, sale or distribution of each asset. OLMS recommends that unions establish and maintain a fixed asset inventory to adequately account for all property that is purchased, sold, or given away.

4. Fund Transfers

The audit also revealed that Local 39 failed to record some funds transferred from the union's savings account to one of the union's checking accounts totaling at least \$5,000. For example, the fund transfer on December 17, 2007 from the union's savings account to the union's hiring hall payroll checking account was not recorded in the union's books. OLMS recommends that all transfers of funds between union accounts be recorded.

I want to extend my personal appreciation to Stage and Picture Operators Local 39 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: Keith Christopher, President
Sara Fanelli, Financial Secretary