



August 20, 2010

Mr. William R. Johnston, Secretary/Treasurer  
Elevator Constructors Local 5  
12273 Townsend Road  
Philadelphia, PA 19154

Case Number: [REDACTED]  
LM Number: 015670

Dear Mr. Johnston:

This office has recently completed an audit of Elevator Constructors Local 5 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 July 27, 2010, 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 5's 2009 records revealed the following recordkeeping violations:

1. Credit Card Expenses

Local 5 did not retain adequate documentation in the form of receipts for credit card expenses incurred by Business Manager Joseph Rapine, Business Representatives Robert Duffy and Edward Loomis and Administrator Maureen Walsh totaling \$552.51.

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.

All the above expenses were properly approved by the membership and the executive board through expense vouchers and were incurred while conducting union business.

## 2. Meal Expenses

Meal expenses must always include a written explanation of union business conducted or the names and titles of the persons incurring the charges. For example on Business Manager Joseph Rapine received \$179.80 for meals purchased at the Hilton Restaurant during the week of June 30, 2009. However, the receipts for these meals did not include a written explanation of union business conducted and the full names and titles of all persons who incurred the restaurant charges. Business Representative Robert Duffy incurred a total of \$461.81 in meal expenses during the month of June 2009. Again, the receipts for these meals did not include the union business conducted nor the full names and titles of all persons who incurred the restaurant charges.

During the audit you took immediate action to correct this violation by contacting Local 5's officers and employees and informing them of the requirement to provide detailed information on all receipts for not only meal expenses but any expenses incurred while conducting union business.

Based on your assurance that Local 5 will retain adequate documentation in the future, OLMS will take no further enforcement action at the 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-2 filed by Local 5 for fiscal year ending December 31, 2008, was deficient in that:

#### Schedule 17 – Contributions, Gifts, and Grants

Local 5 reported \$20,403 in payments to American Express in Schedule 17 Contributions, Gifts & Grants. Disbursements to credit card companies may not be reported as a single disbursement to the credit card company as the vendor. Instead, charges appearing on credit card bills paid during the reporting period must be allocated to the recipient of the goods or services.

The violation cited above was addressed and explained to you and Local 5's accountant Daniel Winters during the Organizational Interview conducted on March 11, 2010. You and Mr. Winters took immediate action to correct the violations by ensuring that the Labor Organization Annual Report Form LM-2 for the fiscal year ending December 31, 2009 was completed correctly prior to filing it with the OLMS.

I am not requiring Local 5 to file an amended Form LM-2 report for 2008 to correct the deficient item as you agreed to properly report the deficient item on all future reports filed with OLMS.

I want to extend my personal appreciation to Elevator Constructors Local 5 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. Harry J. Sloan, President