



August 13, 2010

Mr. John Downs, President
Laborers (LIUNA) Local 976
155 West Road
Portsmouth, NH 03801

Case Number: [REDACTED]
LM Number: 040-244

Dear Mr. Downs:

This office has recently completed an audit of Laborers Local 976 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 Business Manager Tom Hersey and Treasurer Leonard Stevens on August 5, 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 976's records for the fiscal year ended September 30, 2009 revealed the following recordkeeping violations:

1. General Reimbursed and Credit Card Expenses

Local 976 did not retain adequate documentation for credit card expenses incurred by former Business Manager [REDACTED] totaling at least \$1,353.36. For example, the local did not maintain any documentation for a \$539.50 charge to US Airways, which was described as airline tickets for training for Organizer Al Penney.

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.

2. Failure to Maintain Sufficient Record of Receipts

Local 976 did not record in its receipts records the source or purpose of at least \$8,882.47 in income received. For example, the union received donations for use of its hall and reimbursements from the Laborer's District Council of Maine, New Hampshire, and Vermont; however, the local did not maintain duplicate receipts or other records to effectively identify the source or purpose of this income. 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. Information not Recorded in Meeting Minutes

During the audit, local officers advised OLMS that the executive board authorized the union's hiring of an organizer at the regular laborer's rate and the intention to send the organizer, Al Penney, to formal training. Officers advised that, although the union purchased an airline ticket for Penney's training, he was unable to travel, and the local was forced to absorb the cost of the ticket. Although meeting minutes contain general references to the local's discussions of these issues, the minutes do not detail the specific salary and expense authorizations. Minutes of all membership or executive board meetings must report any financial authorizations made at those meetings.

Based on your assurance that Local 976 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-2) filed by Local 976 for the fiscal year ended September 30, 2009, was deficient in the following areas:

1. Disbursements to Officers and Employees

Local 976 did not properly report some payments to officers and some credit card disbursements made by officers totaling at least \$20,531.80 in Schedule 11 (All Officers and Disbursements to Officers) and Schedule 12 (Disbursements to Employees). Local 976 improperly included accrued salary payments, benefit payments, and certain indirect disbursements arranged by officers in Schedules 11 and 12; however, these disbursements should have been reported elsewhere in Form LM-2.

It appears that the local reported at least \$3,975 in accrued salary payments to former Business Manager [REDACTED], which were not paid by the union within the fiscal year. Instructions for Schedule 11 require unions to report all salaries and other disbursements to officers during the reporting period. For all schedules that fall under Statement B of the report, such as Schedule 11, receipts must be recorded when money is actually received by the labor organization and disbursements must be recorded when money is actually paid out by the labor organization.

Additionally, Local 976 also appears to have erroneously reported at least \$12,166 in pension benefit disbursements to officers and employees in Schedules 11 and 12, Item (G); however, such payments should be reported in Schedule 20 (Benefits).

Furthermore, Local 976 local reported all disbursements made on the union's credit card totaling \$6,064 in Schedule 11(F) (Disbursements for Official Business) for former Business Manager [REDACTED]. Although at least \$1,673.20 in credit card disbursements related to the local's automobile were correctly reported as Disbursements for Official Business, the other indirect disbursements reported appear to have been for items such as office supplies, airline travel for official business, and refreshments for membership meetings.

Instructions for Form LM-2 state that disbursements made by the labor organization to someone other than an officer as a result of transactions arranged by an officer in which property, goods, services, or things of value were received by or on behalf of the labor organization, rather than the officer should not be reported in Schedules 11 and 12. Rather, such disbursements, for example, the purchase of office supplies or refreshments and other expenses for membership banquets or meetings, should be allocated to Schedules 15 through 19, as appropriate.

The union must report in Column F of Schedules 11 and 12 (Disbursements for Official Business) direct disbursements to officers and employees for reimbursement of expenses they incurred while conducting union business. In addition, the union must report in Column F of Schedules 11 and 12 indirect disbursements made to another party (such as a credit card company) for business expenses union personnel incur. However, the union must report in Schedules 15 through 19 indirect disbursements for business expenses union personnel incur for transportation by public carrier (such as an airline) and for temporary lodging expenses while traveling on union business.

The union must report in Column G (Other Disbursements) of Schedules 11 and 12 any direct or indirect disbursements to union personnel for expenses not necessary for conducting union business.

2. Failure to Itemize Disbursement or Receipt

Local 976 did not properly report some “major” transactions in Schedule 14 (Other Receipts). A “major” transaction includes any individual transaction of \$5,000 or more or total transactions to or from any single entity or individual that aggregate to \$5,000 or more during the reporting period and which the local cannot properly report elsewhere in Statement B. The audit found that Local 976 received at least \$8,682.47 in reimbursements from the Laborer’s District Council of Maine, New Hampshire, and Vermont. Instructions for Schedule 14 indicate that a labor organization should complete an Initial Itemization Page identifying the name and address of the entity or individual from which the union received \$5,000 or more in “Other Receipts” during the reporting period. Any individual receipt of \$5,000 or more should be reported as an itemized transaction. Total receipts from any single entity or individual that aggregate to \$5,000 or more during the reporting period should be reported as non-itemized transactions on the Initial Itemization Page for the payer.

I am not requiring that Local 976 file an amended LM report for 2009 to correct the deficient items, but Local 976 has agreed to properly report the deficient items on all future reports it files with OLMS.

I want to extend my personal appreciation to Laborers Local 976 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. Tom Hersey, Business Manager
Mr. Leonard Stevens, Treasurer