



March 29, 2024

Jean Wheeler, Treasurer
Machinists Local 2401

Case Number: 110-6028033()
LM Number: 067237

Dear Ms. Wheeler:

This office has recently completed an audit of Machinists Local 2401 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, President Michael Harrington, and Conductor Sentinel James Wilkinson on March 27, 2024, 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 2401's 2022 records revealed the following recordkeeping violations:

1. Receipt Dates not Recorded

Entries in Local 2401's receipts journal 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.

2. Lost Wages

Local 2401 did not retain adequate documentation for lost wage reimbursement payments to union officers and employees totaling at least \$11,000. The union must maintain records in support of lost wage claims that identify each date lost wages were incurred, the number of hours lost on each date, the applicable rate of pay, and a description of the union business conducted. The OLMS audit found that Local 2401 retained an invoice from the employer that included the officer's name and total amount paid each month. However, the union records failed to identify the date of loss, hours of lost time, the applicable rate of pay, and a description of the union business conducted.

During the exit interview, I provided a compliance tip sheet, *Union Lost Time Payments*, that contained a sample of an expense voucher Local 2401 may use to satisfy this requirement. The sample identifies the type of information and documentation that the local must maintain for lost wages and other officer expenses.

3. Reimbursed Auto Expenses

President Michael Harrington who received reimbursement for business use of their personal vehicles did not retain adequate documentation to support payments to him totaling at least \$300 during 2022. The union must maintain records which identify the dates of travel, locations traveled to and from, and number of miles driven. The record must also show the business purpose of each use of a personal vehicle for business travel by an officer or employee who was reimbursed for mileage expenses.

4. Lack of Stipend Authorization

Local 2401 did not maintain records to verify that the Treasurer's stipend reported in Item 24 (All Officer 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 amount authorized by the entity or individual in the union with the authority to establish salaries or similar payments.

Based on your assurance that Local 2401 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 LM-3 filed by Local 2401 for the fiscal year ended December 31, 2022, was deficient in the following areas:

1. Disbursements to Officers (LM-3)

Local 2401 did not include some payments to officers totaling at least \$11,000 in the amounts reported Item 24 (All Officers and Disbursements to Officers). These amounts were lost wages indirectly paid to officers during the period. It appears the union erroneously reported these payments in Item 54 (Other Disbursements). Although Local 2401 reimbursed the employer directly for lost wages incurred by officers during the year, the union paid these wages, and therefore, the amounts should be included next to each officer's name on the LM-3 Report. Similarly wage payments to non-officers should be reported in Item 46 (To Employees).

The union must report most direct disbursements to Local 2401 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 (Cash) are not the figures according to Local 2401'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.

Local 2401 failed to report all the organization's cash on hand and on deposit at the start and end of the reporting period. All cash on deposit includes funds in the banks, credit unions, other financial institutions, and any special purpose funds even if they are not part of the organization's general treasury. Therefore, Local 2401 should be reporting the value of assets at the Cattaraugus County Bank, constituting the hardship fund, as these funds are union assets, for the benefit of the membership. The starting and ending balances of this fund, and any receipts collected, or disbursements made from this fund should be reported accordingly on the LM-3 Report.

3. 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 2401 amended its constitution and bylaws in 2016 but did not file a copy with its LM report for that year.

As agreed, Local 2401 will file a copy of its current constitution and bylaws with OLMS as soon as possible but not later than April 21, 2024.

I am not requiring that Local 2401 file an amended LM report for 2022 to correct the deficient items, but Local 2401 has agreed to properly report the deficient items on all future reports it files with OLMS, beginning with the 2023 LM report.

I want to extend my personal appreciation to Local 2401 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,

A solid black rectangular redaction box covering the signature of the investigator.

Investigator

cc: President Michael Harrington
Conductor Sentinel James Wilkinson