



February 21, 2013

Mr. Efren Diego, President  
Kaolin Workers Union  
P.O. Box 246  
Kennett Square, PA 19348-0246

Case Number: 140-11125 [REDACTED]  
LM Number: 530750

Dear Mr. Diego:

This office has recently completed an audit of Kaolin Workers Union 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 and Business Representative Jesus Romero on February 12, 2013, 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 Violation

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 Kaolin Workers Union's records revealed the following recordkeeping violation:

#### Information not Recorded in Meeting Minutes

During the audit, President Efren Diego and Business Representative advised OLMS that the membership authorized union disbursements. However, minutes are not taken at membership meetings. Minutes of all membership or executive board meetings must be kept and report any disbursement authorizations made at those meetings.

Based on your assurance that Kaolin Workers Union will retain adequate documentation in the future, OLMS will take no further enforcement action at this time regarding the above violation.

#### 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 Kaolin Workers Union for the fiscal year ended March 31, 2012, was deficient in the following areas:

##### 1. Disbursement to Officers

Kaolin Workers Union did not include some reimbursements to officers totaling at least \$126.73 in the amounts reported in Item 24 (All Officers and Disbursements to Officers). It appears the union erroneously reported these payments in Item 48 (Office & Administrative Expense).

The union must report most direct disbursements to Kaolin Workers Union 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 Kaolin Workers Union's checking account check stubs 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. During the audit, Romero was informed and advised of the need to maintain a ledger or account monitoring

system for the union's checking account. He agreed to initiate and maintain a ledger for receipts and disbursements.

### 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 and bylaws. Kaolin Workers Union had not filed a copy of its bylaws with OLMS.

Kaolin Workers Union has now filed a copy of its constitution and bylaws.

Kaolin Workers Union must file an amended Form LM-3 for the fiscal year ending March 31, 2012, to correct the deficient items discussed above. I encourage Kaolin Workers Union to complete, sign, and file its report electronically using the Electronic Filing System (EFS) available at the OLMS website at [www.olms.dol.gov](http://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 March 8, 2013 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.

I want to extend my personal appreciation to Kaolin Workers Union 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