

Legal Responsibilities of Union Officers and Employees

Title V of the LMRDA (Labor Management Reporting and Disclosure Act) imposes a fiduciary responsibility upon Union officers and employees. 29 U.S.C. §501 (a) states that the Union's money and property must be held "solely for the benefit of the organization and its members and to manage, invest, and expend the same in accordance with its constitution and bylaws and any resolutions of the governing bodies adopted thereunder, to refrain from dealing with such organization as an adverse party or in behalf of an adverse party in any matter connected with his duties and from holding or acquiring any pecuniary or personal interest which conflicts with the interests of such organization, and to account to the organization for any profit received by him in whatever capacity in connection with transactions conducted by him or under his direction on behalf of the organization." This law also imposes a duty to act upon other Union officers and employees who know that one of their officers or employees has violated this section. Any person who embezzles, steals, or converts moneys, funds, securities, property, or other assets of a union to his or her own use shall be fined not more than \$10,000 or imprisoned for not more than five years, or both. Moreover, no union can make any loan, directly or indirectly, to any officer or employee. 29 U.S.C. §503 (a).

Federal law also makes it unlawful for any employer or employer association to pay, lend or deliver any money or other thing of value: 1) to any representative of any of his employees; or 2) to any labor organization or its officers or employees which represents or seeks to represent any employees of that employer. 29 U.S.C. §505 (a). It is also unlawful for any person to request, demand, receive or accept any payment, loan or delivery of any money or other thing of value. 29 U.S.C. §505 (b). In other words, never accept anything of value from a signatory employer, not even lunch. The same law applies to any employer that the union is trying to organize.

Federal law requires all unions and their officers and employees to file reports with the Department of Labor on an annual basis. The LM-10 requires all employers to report to the DOL whenever they give things of value to union employees and officers. The LM-30 requires that union employees and officers report the receipt of things of value (any financial transactions that are \$250 or more) from an employer. For LM reporting requirements, "employer" means any employer, such as law firms, accountants, actuaries, investment managers, investment consultants, benefit services providers, etc., from which a union employee or officer receives something of value.

There is an exception for "Insubstantial" payments and gifts. An individual does not have to report any payments or gifts totaling \$250 or less from any one source, and payments or gifts valued at \$20 or less do not need to be included in determining whether the \$250 threshold has been met. For example, you receive from an employer two gifts (meals, etc.) worth \$20 each and two meals at a fancy restaurant or exclusive event worth \$150 each, you need only keep records of the expensive restaurant meals and report your receipt of this \$300 value. However, you may not use the exception to hide the receipt of a series of payments or gifts purposely set at \$20 or less to avoid reaching the \$250 reporting threshold. For example, you would have to report your receipt of individual tickets worth \$20 or less to a professional athletic team's games even if they are provided before each game rather than given as a complete package at the start of the season.

Remember, employers must report to the DOL whether they have provided you something of value that is more than \$250. So if you fail to report that you have received something of value that is more than \$250, the government can always check the employer's LM-10 form. The Office of Labor Management Standards conducts compliance audits and criminal investigations in order to assure compliance with law.

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