

LAW FOR LABOR
SPECIAL BULLETIN

LM-30

LIPSITZ, GREEN, FAHRINGER, ROLL, SALISBURY & CAMBRIA LLP

UNDERSTANDING THE FUNDAMENTALS OF FORM LM-30, FILING Q & A

BY: MARK STULMAKER

Since its enactment in 1959, the Labor-Management Reporting and Disclosure Act ("LMRDA") has required union officers and employees to file a report annually with the Department of Labor's Office of Labor-Management Standards if they engage in certain activities or have certain financial interests. The LMRDA applies to labor organizations that represent private sector employees and U.S. Postal Service employees. Union officers or employees meet their reporting requirements by filing a Form LM-30 within 90 days of the end of their fiscal year.

The DOL issued proposed new instructions for the LM-30 in August in an effort to improve voluntary compliance with the reporting requirement of the LMRDA. A total of only 244 such forms were filed in fiscal years 2001 through 2004. In November, the DOL issued guidance in the form of questions and answers about employer reporting requirements which included a special enforcement policy and grace period for employers who timely file a Form LM-10 for the 2005 fiscal year. This guidance, together with the Form LM-30 proposed instructions issued earlier in the year, should help union officers and employees meet their LM-30 reporting requirements.

WHO MUST FILE AN LM-30?

Union officers or employees must file an LM-30 if they receive gifts or enter into any financial arrangements with (i) employers whose employees the union represents; (ii) businesses that do business with employers the union represents; (iii) vendors or suppliers of the union; or (iv) vendors or suppliers of a trust in which the union has an interest. Similarly, if the officer's spouse or minor child receives a gift or

enters into a financial arrangement with an employer, then these transactions must be reported on the LM-30 as well.

EXACTLY WHAT TRANSACTIONS MUST BE REPORTED?

The LM-30 is divided into three parts; A, B and C.

The Department of Labor specified that a law firm actively vying to be recommended by the union to its members should file an LM-10.

In Part A, the officer or employee must report any holdings in, or transactions with, an employer whose employees the union represents or is seeking to represent. For example, if a union officer receives stock in a company the union represents as a gift by the company, the gift must be reported in Part A of the

LM-30. Or, if the union officer receives a loan from the employer the union represents, this transaction must be reported on Part A. And, if the union officer accompanies employer-management officials on a trip to tour company facilities and gets reimbursed by the company for his expenses, the reimbursement must be reported as well.

Part B of the LM-30 requires the reporting of hold-

About THIS BULLETIN

In recent years the Department of Labor has issued new policies and stricter enforcement for filing Form LM-30. This special edition of Law for Labor details the information you need to meet reporting requirements. Please read all information carefully. If you have any questions or are unclear on any reporting items, please contact Lipsitz, Green. As this bulletin demonstrates, we are dedicated to ensuring you have the best guidance possible.

ings in, or transactions with, a business that buys from or sells to the employer, to the union itself, or to a trust in which the union is interested. To be reportable, the holding or transaction must be with a business that derives a substantial part of its income from the employer, union, or trust. The instructions for the LM-30 define "substantial" as 5% or more.

Examples of reportable transactions under Part B are as follows:

- An officer/employee owns a vending machine business which derives a substantial part of its income from an employer whose employees are represented by the union
- The spouse of a union officer is employed by a law firm which derives a substantial part of its income from an employer whose employees are represented by the union
- The spouse of a union employee is employed by a computer consulting firm which derives a substantial part of its income from a trust fund that provides health benefits to union members

Part C of the LM-30 requires the reporting of any payment of money or other thing of value from any employer that is not already reportable under Parts A or B.

This could require the reporting of gifts from any employer.

ARE THERE EXEMPTIONS FROM THE PART A AND B REPORTING REQUIREMENTS?

Yes. There are four exemptions.

First, if the business interest held by an officer or employee of the union, spouse, or minor child is stock in a publicly-held company, the interest need not be reported.

Second, if the business interest is insubstantial and is not related to the officer's status in the union, it need not be reported. The test for insubstantial is an ownership stake of \$1,000 or less or income of \$100 or less in the company.

Third, purchases and sales to or from companies in the regular course of business and at the same price

U.S. Department of Labor
Office of Labor-Management
Standards
Washington, DC 20210

FORM LM-30
LABOR ORGANIZATION OFFICER AND
EMPLOYEE REPORT

Form approved
Office of Management
and Budget
No. 1215-0188
Expires 11-30-2006

This report is mandatory under P.L. 86-257, as amended. Failure to comply may result in criminal prosecution, fines, or civil penalties as provided by 29 U.S.C. 439 or 440.

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READ THE INSTRUCTIONS CAREFULLY BEFORE PREPARING THIS REPORT.

1. File Number - U -	2. Fiscal Year Covered From: <input type="checkbox"/> / <input type="checkbox"/> / <input type="checkbox"/> Through: <input type="checkbox"/> / <input type="checkbox"/> / <input type="checkbox"/>
3. Name and address of person filing. Name P.O. Box, Bldg., Room No., if any Street City State ZIP Code + 4	4. Name, file number, and address of labor organization. Name Labor Organization File Number P.O. Box, Building and Room Number, if any Street City State ZIP Code + 4
5. Position	

Part A

Employer appropriate under Part A, during the past fiscal year, you or your spouse or minor child directly or indirectly had any of the following interests (except as specified in the exclusions set forth in the instructions):

A. Held an interest in, engaged in transactions (including loans) with, or derived income or other economic benefit of monetary value from an employer whose employees your organization represents or is actively seeking to represent.	7.a. Nature of Interest, Transaction, or Income
6. Name and address of Employer (including trade name, if any). Name Trade Name, if any: P.O. Box, Bldg., Room No., if any Street City State ZIP Code + 4	7.b. Amount

Signature

15. Signature and verification. The undersigned declares, under penalty of Perjury and other applicable penalties of the law, that all of the information submitted in this report (including the information contained in any accompanying documents), has been examined by the signatory and is, to the best of the undersigned's knowledge and belief, true, correct, and complete. (See the section on penalties in the instructions.)

Signed _____ On _____ Date _____ Telephone Number _____

Name of Person Filing	File Number U-
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B. Held an interest in or derived income or economic benefit with monetary value from a business (1) a substantial part of which consists of buying from, selling or leasing to, or otherwise dealing with the business of an employer whose employees your labor organization represents or is actively seeking to represent, or (2) any partnership which consists of buying from or selling or leasing directly or indirectly to, or otherwise dealing with, a trust in which your labor organization is interested.

8. Name and address of employer (including trade name, if any). Name Trade Name, if any: P.O. Box, Bldg., Room No., if any Street City State ZIP Code + 4	9. Business deals with: <input type="checkbox"/> a. Labor Organization <input type="checkbox"/> b. Trust <input type="checkbox"/> c. Employer
10. If 9.b. or 9.c. is checked give trust or employer's name. Name Trade Name, if any: P.O. Box, Bldg., Room No., if any Street City State ZIP Code + 4	11.a. Nature of such dealing 11.b. Approximate dollar value of such dealing 12.a. Nature of interest held or income received 12.b. Amount

Part C

C. Received from any employer (other than an employer covered under parts A and B above) or from any labor relations consultant to an employer any payment of money or other thing of value.

13.a. Name and address of Employer or Labor Relations Consultant (including trade name, if any). Name Trade Name, if any: P.O. Box, Bldg., Room No., if any Street City State ZIP Code + 4	14.a. Nature of payment 14.b. Amount of payment
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13.b. Is the Business an Employer or Consultant ?

that is available to any other employee of an employer are also exempt. For example, some employers offer computer purchases to employees. Union officers who are also employees can take advantage of these programs without having to report the transaction.

Finally, wages, fringe benefits, or payment for time not worked where the payments are required as part of a collective bargaining agreement or are the tradition of the employer need not be reported.

IS THERE A DE MINIMIS RULE FOR GIFTS?

Yes, if the value of the gift or favor is “insubstantial,” it need not be reported. The Department of Labor considers gifts and gratuities to be insubstantial if the aggregate value of all gifts and gratuities that an employer gives to a single union employee or official in one fiscal year is \$250 or less. Payments from multiple employees from one employer should be aggregated to determine if the de minimis exemption applies.

In order to qualify for the de minimis exemption, the gift or gratuity must be “unrelated to the recipient’s status in a labor organization.” This requires that the employer must ordinarily provide such gifts to individuals in similar circumstances who are not union officials. For example, if an accounting firm takes all its clients to dinner, then the gift would be unrelated to the recipient’s status as a union officer.

MUST EMPLOYERS DOING BUSINESS WITH THE UNION REPORT THEIR TRANSACTIONS WITH UNION OFFICERS?

Yes. Such businesses must file an LM-10. It is important that union officers and employees be aware of LM-10 filings, since they will likely be matched by the Department of Labor with the LM-30 filing.

WHAT EMPLOYERS MUST FILE AN LM-10?

Generally, the LM-10 applies to any employers doing business with the union or an affiliated trust fund and, of course, an employer whose employees a union represents. It also includes employers who are actively seeking to establish a business relationship with the union or an affiliated pension and welfare plan. In its recent guidance, the Department of Labor specified

that a law firm that is actively vying to be included on a union list of “designated legal counsel” and thus be recommended by the union to its members is an example of an employer whose covered payments must be included on an LM-10.

WHEN MUST EMPLOYEE BENEFIT TRUSTS AND UNIONS FILE LM-10S?

Trusts and unions do not have to file a Form LM-10 until (at the earliest) the Form LM-10 proposed regulations are finalized which is not likely to incur until mid-2006.

IF THE EMPLOYEE BENEFIT FUND DOES NOT FILE AN LM-10, MUST A UNION OFFICIAL WHO IS ACTING AS A TRUSTEE REPORT PAYMENTS FROM THE TRUST FUND?

The Department of Labor has stated that they will not enforce the LM-30 report of payments from trusts that are lawfully constituted pension or welfare plans to union officials who are acting as trustees of the trust, pending the completion of the Form LM-30 rule making.

WHAT ARE THE PENALTIES FOR NOT FILING OR FILING FALSE INFORMATION?

The LMRDA imposes criminal penalties on any person who (1) willfully violates the LMRDA’s reporting requirements; (2) knowingly makes a false statement or representation of material fact in any required reported disclosure; (3) knowingly fails to disclose a material fact in any required reported disclosure; or (4) lawfully makes a false entry in or conceals, withholds, or destroys any records required to be kept by the LMRDA.

The statutory penalty is a maximum fine of \$10,000 or imprisonment for not more than one year, or both.

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LM-30

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What's Inside?

ANSWERS TO IMPORTANT LM-30 FILING QUESTIONS INCLUDING:

- Who must file an LM-30?
- Exactly what transactions must be reported?
- Are there exemptions from the Part A and B reporting requirements?
- Is there a de minimis rule for gifts?
- Must employers doing business with the union report their transactions with union officers?
- What employers must file an LM-10?
- When must employee benefit trusts and unions file LM-10s?
- If the employee benefit fund does not file an LM-10, must a union official who is acting as a trustee report payments from the trust fund?
- What are the penalties for not filing or filing false information?

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