U.S. Department of Labor

Employment Standards Administration
Office of Labor-Management Standards
Detroit District Office
211 West Fort Street
Room 1313
Detroit, MI 48226
(313)226-6200 Fax: (313)226-4391

June 18, 2007

Mr. Gary Westbrook, Financial Secretary
Bakery, Tobacco & Grain AFL-CIO
Local 262-G
59 North
Croswell, Michigan 48422

Re: Case Number: [redacted]
LM File Number: 011-972

Dear Mr. Westbrook:

This office has recently completed an audit of Bakery, Confectionery, Tobacco Workers and Grain Millers (BCTGM) Local 262-G 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 BCTGM Local 262-G President Barry Broeckaert on December 7, 2006, 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 262-G's 2005 records revealed the following recordkeeping violations:

1. Failure to Record Receipts

   Local 262-G did not record in its receipts records any dues payments received from direct-paying members. Seven members paid a total of $125.30 of dues directly to Local 262-G. Local 262-G deposit records show that the dues were deposited into Local 262-G's checking account; however, the dues payments were never recorded in the receipts journal. Local 262-G 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.

2. General Expenditures

   Local 262-G did not retain adequate documentation for checks written to outside parties totaling at least $3,100. For example, check [redacted] in the amount of $500 was issued to the "Interfactory Fund" for union expenses. However, no receipts or billing statements were retained in support of that payment.

   As previously 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 annual financial report (Labor Organization Annual Report, Form LM-3), are responsible for properly maintaining union records.

3. Lack of Salary and Lost Time Authorization

   Local 262-G did not maintain records to verify that the salary and lost time totaling $3,959 reported in Item 24 (All Officers and Disbursements to Officers) on Form LM-3 were the authorized amounts and correctly reported. Local 262-G must keep a record, such as meeting minutes, to show the current salary and lost time authorized by the entity or individual in the union with the authority to establish such compensation.

4. Lack of Authorization for Officer and Employee Meal Allowance and Reimbursed Vehicle Expenses

Local 262-G did not maintain records to verify that the meal allowances and reimbursed vehicle expenses totaling $769 reported in Item 24 of Form LM-3 were the authorized amounts and correctly reported. The audit revealed that officers and members who conduct union business for eight or more hours in a day are given a meal allowance of $6 and are reimbursed for the use of their personal vehicles in the amount of 41¢ per mile. The mileage reimbursement rate increased in 2005. Like salary and lost time, Local 262-G must keep a record, such as meeting minutes, to show the current meal allowance and mileage rate authorized by the entity or individual in the union with the authority to establish such compensation.

5. Special Purpose Fund

The audit revealed that Local 262-G maintains a "Flower Fund" at Eastern Michigan Bank that you did not disclose during the opening interview. You and Mr. Broeckaert stated that the Flower Fund pays for flowers at funerals (up to $35) and gift cards ($15) when members become ill. The fund's sole source of revenue is All Star Services in Port Huron, Michigan. All Star Services issues checks to Local 262-G for bottle return refunds produced by the vending machines located at the Michigan Sugar Company in Croswell, Michigan. Local 262-G failed to record in its receipt records any of the $929 it received from All Star Services. Local 262-G deposit records show that the payments were deposited into the Flower Fund; however, the payments were never recorded in the receipts journal. Local 262-G receipts records must adequately identify the source, date, and amount of all money received.

Local 262-G did not maintain Flower Fund bank statements for 10 of the 12 months audited. In addition, seven canceled checks (or images thereof) totaling $423.80 were not retained. Local 262-G must retain all bank records such as these.

Furthermore, adequate documentation for four checks totaling $220 was not retained. For example, check [redacted] in the amount of $140 to Farmer Jack was issued for gift cards; however, no receipts were retained in support of that payment. Local 262-G must retain original receipts, bills, and vouchers for all disbursements.

6. Meeting Minutes

During the audit, you advised OLMS that Local 262-G membership meetings are held on the third Wednesday of the months of March through August and that travel expenses, including mileage and meals, are determined at the meetings. In addition, various provisions of the BCTGM Constitution require that the business of a local union be authorized or approved by the local union executive board or membership. The audit revealed that Local 262-G maintained no minutes of the membership meetings conducted in May, July, and August 2005. Executive board and membership meeting discussions pertaining to matters that must be reported on Form LM-3, including authorizations or approvals of disbursements, must be noted in meeting minutes that must be retained.

Based on your assurance that Local 262-G 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-3) filed by BCTGM Local 262-G for fiscal year ending December 31, 2005, was deficient in the following areas:

1. Cash Reconciliation

It appears that the cash figures reported in Item 25 (Cash) are not the cash figures according to the union'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. The balance of the Local 262-G Flower Fund must be included in Item 25.

2. Disbursements to Officers

Local 262-G did not include all payments to Mr. Broeckaert in the amount reported in Item 24 (All Officers and Disbursements to Officers). Local 262-G must report most direct disbursements to its 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).

3. Disbursements to Employees

Local 262-G did not include all payments to employees in Item 46 (Disbursements to Employees). Employees include individuals other than officers who receive lost time payments even if the labor organization does not otherwise consider them to be employees or does not make any other direct or indirect disbursements to them.

4. Special Purpose Fund

Local 262-G failed to report the money received in and disbursed from the "Flower Fund" in Statement B (Receipts and Disbursements). All Local 262-G funds must be reported, including any special purpose funds or accounts, such as strike funds, vacation funds, and scholarship funds, even if they are not part of Local 262-G's general treasury. However, transfers between the Flower Fund and Local 262-G's general fund do not represent the flow of cash in and out of the labor organization and, therefore, should not be reported as receipts and disbursements.

5. Trust Fund

Section 3(l) of the LMRDA defines a trust as "a trust or other fund or organization (1) which was created or established by a labor organization, or one or more of the trustees, or one or more members of the governing body of which is selected or appointed by a labor organization, and (2) a primary purpose of which is to provide benefits for the members of such labor organizations or their beneficiaries."

The audit revealed that Local 262-G made contributions to a fund that supports the activities of a committee established by Local 262-G and BCTGM Locals 259-G, 260-G, and 261-G and known as the "Interfactory Fund." The committee was developed to handle issues affecting all four locals. The fund pays for any expenses related to arbitrations, lawyers, and hall rentals. The Interfactory Fund is

considered to be a reportable trust in which Local 262-G and the other locals are interested.

As such, Item 11 (Trusts or Funds) must be answered "Yes" and the full name, address, and purpose of the trust must be provided in Item 56 (Additional Information). If financial information about the trust is already available as a result of the disclosure requirements of another Federal statute, list the name of any government agency, such as the Employee Benefits Security Administration (EBSA) of the Department of Labor, with which the trust files a publicly available report, and the relevant file number of the trust, or otherwise indicate where the relevant report may be viewed.

At the exit interview, you agreed to properly report the deficient items on all future reports Local 262-G files with OLMS. On February 5, 2007, Local 262-G filed an amended Form LM-3 for the fiscal year ending June 30, 2006, to correct the deficient items.

Other Issues

1. Special Purpose Fund Account Signatories

   To prevent, or at least inhibit, the misuse or embezzlement of their funds, most organizations including corporations, banks, international unions, etc., install internal controls over the handling of their finances. One such control is the requirement that all checks drawn on an entity's bank accounts have a second signature. The audit revealed only one signatory on the Local 262-G "Flower Fund." OLMS strongly encourages Local 262-G to consider adopting this control and ensure that the cosigner fully understands that his/her fiduciary responsibilities require that the checks be signed only after they are completely filled out and the cosigner knows the purpose and legitimacy of each transaction.

2. Payments to Local 262-G

   Another financial safeguard that Local 262-G should consider is requesting All Star Services to issue checks to Local 262-G in the union's name, rather than in the name of the Flower Fund chairperson. In addition, Local 262-G should require members not on check-off to pay their dues to Local 262-G by personal check or money order, rather than in cash.

3. Bylaws

LMRDA Section 201(a) requires every covered labor organization to adopt a constitution and bylaws. In addition, Article XVI, Section 5 of the BCTGM Constitution states that every local union shall adopt bylaws. The audit revealed that Local 262-G is governed by the BCTGM Constitution, but has not adopted bylaws.
"Constitution and bylaws" means the basic written rules governing the organization. If the BCTGM Constitution includes all of the basic written rules governing Local 262-G, and if other bylaws actually do not exist, no formal adoption thereof need be made. However, if the language of the BCTGM Constitution is limited in its application to the conduct of BCTGM business and no provisions are made for the guidance of the internal operation of BCTGM local unions, then Local 262-G will not have met the requirements of Section 201(a) and will have to adopt bylaws and file a copy with OLMS.

4. Canceled Checks

Local 262-G maintained all of its original canceled checks from January through June 2005. During the month of July 2005, Eastern Michigan Bank (Local 262-G's financial institution) began providing images of just the front side of Local 262-G's monthly canceled checks rather than original canceled checks. As we discussed during the exit interview, Local 262-G is permitted to use a truncated checking account (an account for which original canceled checks are not returned to the account holder) only if the financial institution retains the original checks or complete, clear, and legible images of the front and back sides of original checks for the required five years, and provides the checks (original or copies) to the union without substantial delay. OLMS recommends that you discuss with the bank the requirement that the records be maintained for five years, and ensure that the bank meets this requirement. If the bank does not maintain original or imaged canceled checks for five years, Local 262-G must otherwise arrange to do so.

I want to extend my personal appreciation to BCTGM Local 262-G 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,

Ian Burg
District Director

cc: Barry Broeckaert, President