U.S. Department of Labor

Employment Standards Administration
Office of Labor-Management Standards
Chicago District Office
230 South Dearborn Street
Room 774, Federal Office Building
Chicago, IL 60604
(312)596-7160 Fax: (312)596-7174

April 13, 2007

Mr. Mike Smith, Secretary-Treasurer/Business Agent
Laborers
Local #751
1390 Stanford Drive
Kankakee, IL 60901-3214

Re: Case Number: [redacted]

Dear Mr. Smith:

This letter constitutes a revised Compliance Audit Program (CAP) closing letter. As a result of additional information and further review, we recognized the need to modify one aspect of our original CAP closing letter dated January 22, 2007. The original CAP closing letter, in the Reporting Violations section titled "LM-2 Schedules 11 and 12 (All Officers and Disbursements to Officers/Disbursements to Employees)", erroneously advised that payments by Local #751 for travel expenses incurred by Secretary-Treasurer Mike Smith on behalf of other labor organizations should be reported under Schedule 18 (General Overhead). (The other labor organizations reimbursed Local #751 for these payments.) Upon further review, it was determined this section should be removed, because Local #751 properly recorded reimbursements to officers under Schedule 11, Column F (Disbursements for Official Business). The revised CAP closing letter is as follows.

This office has recently completed an audit of Laborers Local #751 under the 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 Mike Smith, Steve Lowman, and Cheryl Baker on December 22, 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.

The CAP disclosed the following violations:

Recordkeeping Violations

Title II of the LMRDA establishes certain reporting and recordkeeping requirements. Section 206 requires, among other things, that adequate records be maintained for at least 5 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, all records used or received in the course of union business must be retained. This includes, in the case of disbursements, not only the retention of original bills, invoices, receipts, and vouchers, but also adequate additional documentation, if necessary, 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 note can be written on it providing the additional information. An exception may be made only in those cases where 1) other equally descriptive documentation has been maintained, and 2) there is evidence of actual oversight and control over disbursements.

In the case of receipts, the date, amount, purpose, and source of all money received by the union must be recorded in at least one union record. Bank records must also be retained for all accounts.

The audit of Local #751's FY 2005 records revealed the following recordkeeping violations:

Officer and Employee Expenses

Union officers and employees failed to maintain adequate documentation for reimbursed expenses and for expenses charged to union credit cards. The date, amount, and business purpose of every expense must be recorded on at least one union record. In addition, the names of individuals present for meal expenses and the locations (names of restaurants) where meal expenses were incurred must be recorded. Local #751 officers did not always write the business purpose of "lunch meetings" on accompanying receipts or expense statements.

Automobile Expenses

Union officers and employees who were assigned union-owned and leased automobiles failed to maintain mileage logs documenting the business use of union vehicles. In the case of union-owned and leased vehicles, logs are required to be maintained for each union vehicle documenting the date, number of miles driven, and business purpose of

each use. In the case of reimbursed mileage expenses for personal vehicles used for business travel, records must be maintained which identify the date of travel, locations traveled to and from, number of miles driven, and the business purpose of each use.

The LM instructions include specific rules for the reporting of automobile expenses. Operating and maintenance costs for each union owned or leased vehicle must be reported in Schedules 11 and 12 of the LM-2, allocated to the officer or employee to whom each vehicle is assigned.

Disposition of Property

Local #751 failed to maintain an inventory of hats, jackets, and other property which were purchased and sold or given away. Records must be maintained that account for all union property. In the case of union hats, jackets and other items sold to members, the date and amount received from every sale must be recorded in at least one record.

Receipts

Local #751 failed to correctly record the date received of several membership dues payments. The date received in the member's individual payment record differed from the date received on the duplicate receipt. The records should show the exact date the money was received, the identity of the source of the money, and the individual amount received from each source. This error appears to have occurred as a result of a computer malfunction, but all receipt records must match.

Conclusion/Recordkeeping Violations

As agreed, provided that Local #751 maintains adequate documentation as discussed above in the future, no additional enforcement action will be taken regarding these violations.

Reporting Violations

The CAP 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-2) filed by Local #751 for fiscal year ending September 30, 2005, was deficient in the following areas:

Acquire/Dispose of Property

Item 15 [LM-2] (Acquire or dispose of any assets in any manner other than by purchase or sale) should have been answered, "Yes," because the union gave away gift certificates and watches totaling more than $6,890.00 during the year. The type and value of any property received or given away must be identified in the additional information section of the LM report along with the identity of the recipient(s) or donor(s) of such property. In addition, for assets that were traded in, the cost, book value, and trade-in allowance must be reported.

In addition, the union must retain records that adequately account for all property purchased, sold, and given away.

Automobile Expenses

Disbursements for the operation and maintenance of union automobiles were not properly reported. The LM-2 instructions provide two methods for reporting automobile-related expenses. Direct and indirect disbursements for the operation and maintenance of union owned and leased vehicles and the operation and maintenance of vehicles owned by union personnel (including gasoline, repairs, and insurance) must be reported in Schedules 11 and 12. Insurance payments were not included under Schedule 11 and 12 for officers who have union vehicles.

The completion of mileage logs will assist the local in properly reporting their auto expenses. The expenses may be divided and reported in Columns F and G based on miles driven for union business (supported by mileage logs) compared with miles driven for personal use. Alternatively, rather than allocating the expenses between Columns F and G, if 50 percent or more of an officer's or an employee's use of a vehicle was for official business, the union may report all of the expenses relative to the vehicle assigned to the officer or employee in Column F of Schedule 11 or 12 with an explanation in Item 69 (Additional Information) that the vehicle was used part of the time for personal business. Similarly, if a vehicle assigned to an officer or employee was used less than 50 percent of the time for business, all of the expenses relative to that vehicle may be reported in Column G with an explanation in Item 69 that the vehicle was used partly for official business. The union does not specify in Item 69 that the union vehicles were used for a small percentage of the time for personal business.

Conclusion/Resolution of Reporting Problems

OLMS is not requiring that Local #751 file an amended LM report for 2005 to correct the deficient items, but as agreed, Local #751 will properly report the deficient items on all future reports filed with this agency.

I want to extend my personal appreciation to Laborers Local #751 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,

[redacted]
Investigator

cc: Steve Lowman, President
Joe Romolo, Romolo & Associates