

U.S. Department of Labor

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April 10, 2008

Mr. Henry Jenkins, President
Retail Wholesale, DC, UFCW
Joint Council 932
1901 10th Avenue South
Birmingham, AL 35205

LM File Number 038-582

Case Number: [REDACTED]

Dear Mr. Jenkins:

This office has recently completed an audit of RWDSU, Alabama Mid-South Council 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 Johnny Whitaker, Angela Wilson, Jerry Foster, Randy Hadley and you on April 3, 2008, 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:

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 RWDSU Alabama Mid-South Council's 2007 records revealed the following recordkeeping violations:

1. Fixed Assets

Alabama Mid-South Council did not have a fixed asset list or inventory sheet that could be located for the audit year or any previous year. The union had fixed assets, including, but not limited to: Vehicles, computers, printers, fax machine, office furniture, kitchen appliances and a Telephone Communications System. The union valued their fixed assets at \$117,025.00 as of 12-31-2007. The proper maintenance of union records is the personal responsibility of the individuals who are required to file RWDSU Alabama Mid-South Council's LM report.

2. Meal Expenses

Alabama Mid-South Council records of meal expenses did not always include written explanations of union business conducted or the names and titles of the persons incurring the restaurant charges. For example, An American Express Credit Card purchase on 1-30-07 at Jim N Nicks Restaurant, Birmingham, AL, in the amount of \$601.73 did not have any documentation that supported the luncheon as union business. A receipt was produced but the names of the attendees or the nature of union business discussed was not on the receipt. An American Express Credit Card purchase on 5-17-07 at Shula's Steakhouse Restaurant, Birmingham, AL, in the amount of \$312.05 did not have any documentation that supported the luncheon as union business. A receipt was produced but the names of the attendees or the nature of union business discussed was not on the receipt. An American Express Credit Card purchase on 7-20-07 at Long Horn Steakhouse Restaurant, Birmingham, AL, in the amount of \$390.36 did

not have any documentation that supported the luncheon as union business. A receipt was produced but the names of the attendees or the nature of union business discussed was not on the receipt nor was any supporting documentation attached. Union records of meal expenses must include written explanations of the union business conducted and the full names and titles of all persons who incurred the restaurant charges. Also, the records retained must identify the names of the restaurants where the officers or employees incurred meal expenses.

3. Failure to Maintain Supporting Documentation for Disbursements

Check Number [REDACTED], dated 5-22-07, payable to [REDACTED] in the amount of \$600.00 had no supporting documentation. The purpose was described as "Translation Services-English to Spanish". No invoice, bill, or receipt could be located. Check Number [REDACTED], dated 6-20-07, payable to Goldstein and Associates in the amount of \$847.00 had no supporting documentation. The purpose was described as "Wall Calendar Purchase". As a general rule, labor organizations must maintain all records used or received in the course of union business for a period of not less than five years from the date of the information contained on the record.

The union has five different verbal rental agreements and makes payments where it is the tenant. The rent payments are for meeting space for JC 932 affiliated members that are geographically separated from the main office. Total rent payments for the FYE 12-31-2007 was \$3525.00. Check numbers [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], and [REDACTED], dated between 1-03-07 and 12-05-07, in the aggregate amount of \$3525.00 for rent payments did not have a receipt, invoice, rental contract, or any other supporting documentation. As a general rule, labor organizations must maintain all records used or received in the course of union business for a period of not less than five years from the date of the information contained on the record.

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 LM report, are responsible for properly maintaining union records.

Based on your assurance that Alabama Mid-South Council 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(a), 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 Alabama Mid-South Council for fiscal year ending 12-31-2006, was deficient in that:

Failure to File By Laws

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 or bylaws. Alabama Mid-South Council amended its constitution and bylaws in January 2001, but did not file a copy with its LM report for that year or any year since. As agreed, Alabama Mid-South Council will file a copy of its current constitution and bylaws with OLMS as soon as possible but not later than 5-01-2008.

I am not requiring that Alabama Mid-South Council file an amended LM report for 2006 to correct the deficient items, but Alabama Mid-South Council has agreed to properly report the deficient items on all future reports it files with OLMS.

Other Violations

The audit disclosed the following other violation:

Making of Loans

The audit disclosed a violation of LMRDA Section 503(a), which prohibits labor organizations from making directly or indirectly any loan or loans to any officer or employee of such organization which results in a total indebtedness on the part of such officer or employee to the labor organization in excess of \$2,000.00. RWDSU JC 932 loaned Angela Parish (doing business as All About You Tanning) \$5675.00 on 10-14-04. Parish was (and still is) the Office Manager/Secretary of RWDSU JC 932 and an employee of the union. The loan was considered a business loan and was repaid in full on 2-20-2007 as agreed in the original promissory note. The loan was made without the approval of the RWDSU JC 932 membership. The loan also was not annotated in the meeting minutes. The membership must be made aware of such practices.

You should be aware that under the provisions of Section 503(c) of the LMRDA any person who willfully violates this section shall be fined not more than \$5,000.00 or

imprisoned for not more than one year, or both. Based on your assurance that Alabama Mid-South Council will not make loans exceeding \$2000.00 to officers or employees of the council in the future, OLMS will take no further enforcement action at this time regarding the above violation.

Other Issues

1. Signing Blank Checks

During the audit, you advised that Henry Jenkins signs blank checks. Your union's bylaws are not clear on check signatures and do not specifically address who can sign the union's checks. The two signature requirement is an effective internal control of union funds. Its purpose is to attest to the authenticity of a completed document already signed. However, signing a blank check in advance does not attest to the authenticity of a completed check, and negates the purpose of the two signature requirement. OLMS recommends that Alabama Mid-South Council review these procedures to improve internal control of union funds.

2. Vacation Policy

As I discussed during the exit interview with you and other members of the Executive Board, the audit revealed that Alabama Mid-South Council does not have a clear policy regarding vacation days. The current policy is on a case by case basis, administered only by the President of the Council, and with no minimum or maximum number of vacation days authorized. OLMS recommends that unions adopt written guidelines concerning such matters.

3. General Loans

Though not a violation of the LMRDA, the making of loans to non-officers or employees of the council is not recommended without the approval and knowledge of the Executive Board and the general membership. As discussed during the exit interview the making of loans to non-officers or employees of the council without the knowledge and approval of the Executive Board and the general membership is a bad practice.

I want to extend my personal appreciation to RWDSU, Alabama Mid-South Council for the cooperation and courtesy extended during this compliance audit. I strongly recommend that you make sure this letter and the compliance assistance materials

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provided to you are passed on to future officers. If we can provide any additional assistance, please do not hesitate to call.

Sincerely,



Investigator

cc: Johnny Whitaker, Secretary-Treasurer