

U.S. Department of Labor

Employment Standards Administration
Office of Labor-Management Standards
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March 11, 2010

Mr. David Silva, President
Communications Workers (CWA) Local 1051
59 Main Street
Fairhaven, MA 02719

LM File Number: 002-100
Case Number: [REDACTED]

Dear Mr. Silva:

This office has recently completed an audit of Communications Workers (CWA) Local 1051 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, Executive Vice President Dennis Mattos, and Secretary-Treasurer Robert Browne on March 10, 2010, 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 1051's records for the fiscal year ending September 30, 2008 revealed the following recordkeeping violations:

1. General Reimbursed and Credit Card Expenses

Local 1051 did not retain adequate documentation for reimbursed expenses and debit card expenses incurred by union officers totaling at least \$2,127.14. For example, the local did not maintain any documentation for charges totaling \$813.60 at the Hilton Hotels in Las Vegas during a CWA International Convention held in 2008.

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 LM report, are responsible for properly maintaining union records.

2. Meal Expenses

Local 1051 did not require officers and employees to submit sufficiently descriptive receipts for meal expenses totaling at least \$1,220.01. The union must maintain itemized receipts provided by restaurants to officers and employees. These itemized receipts are necessary to determine if such disbursements are for union business purposes and to sufficiently fulfill the recordkeeping requirement of LMRDA Section 206.

Local 1051 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, meals purchased at the Chateau and at Nashoba Restaurant totaling \$290.00 did not contain complete records of the individuals in attendance at the meals or complete descriptions of the union business conducted. 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.

Based on your assurance that Local 1051 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 Local 1051 for fiscal year ending September 30, 2008, was deficient in the following areas:

1. Disbursements to Officers

Local 1051 did not include some reimbursements to officers totaling at least \$3,364.79 in the amounts reported Item 24 (All Officers and Disbursements to Officers). It appears the union erroneously reported these payments in Item 48 (Office and Administrative Expense). Additionally, Local 1051 did not report the names of its four district vice presidents (DVPs) and the total amounts of payments to them or on their behalf in Item 24 (All Officers and Disbursements to Officers). DVPs are union officers and members of the local's executive board. The union must report in Item 24 all persons who held office during the year, regardless of whether they received any payments from the union.

The union must report most direct disbursements to Local 1051 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).

2. Information Items

Local 1051 failed to report the number of its members (Item 19) and the rates of dues and fees (Item 23) for the audit year. Instructions for Form LM-3 require that a union report the number of its members at the end of the reporting period, including therein all categories of members who pay dues. Officers indicated that Local 1051 had approximately 235 or 240 members during the audit year. Form LM-3 also requires that a union report all rates of dues and fees established by the organization. Local 1051 members pay dues at a rate equivalent to 2 ¼ hours of salary per month or 2 hours per month for employees working under a contract with a no-strike clause.

3. Cash Reconciliation

It appears that the cash figures reported in Item 25 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.

4. Failure to File Bylaws

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. Local 1051 amended its constitution and bylaws in 1998, but did not file a copy with its LM report for that year. Local 1051 has now filed a copy of its constitution and bylaws with OLMS.

I am not requiring that Local 1051 file an amended LM report for the fiscal year ending September 30, 2008 to correct the deficient items; but Local 1051 has agreed to properly report the deficient items on all future reports it files with OLMS.

Local 1051 must, however, file its Form LM-3 for the fiscal year ending September 30, 2008, which it has yet to file with OLMS. OLMS provided you with a blank form and instructions, and advised you that the reporting forms and instructions are available on the OLMS website (www.dol.gov/olms). The Form LM-3 should be submitted to this office at the above address as soon as possible, but not later than Wednesday, March 24, 2010. Before filing, review the report thoroughly to be sure it is complete, accurate, and signed properly with original signatures.

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I want to extend my personal appreciation to 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,

Mark Letizi
District Director

cc: Dennis Mattos, Executive Vice President
Robert Browne, Secretary-Treasurer