

U.S. Department of Labor

Office of Labor-Management Standards
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May 16, 2011

Mr. Thomas O'Shei, Financial Secretary
Steelworkers, AFL-CIO
LU 04-135
810 Sheridan Drive
Tonawanda, NY 14150

Case Number: [REDACTED]
LM Number: 007-508

Dear Mr. O'Shei:

This office has recently completed an audit of Steelworkers, AFL-CIO Local Union 135 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 Treasurer Frank Bystrak and you on May 2, 2011, 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 Violation

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 135's 2010 records revealed the following recordkeeping violation:

Reimbursed Travel and Auto Expenses

Union officers and employees who received reimbursement for business use of their personal vehicles and travel expenses did not retain adequate documentation on a few occasions to support payments to them during 2010. The union must maintain records which identify the dates of travel, locations traveled to and from, and number of miles driven. The record must also show the business purpose for travel by an officer or employee who was reimbursed expenses.

Based on your assurance that Local 135 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-2) filed by Local 135 for the fiscal year ended December 31, 2010, was deficient in the following areas:

1. Lost Wage Payments to Officers and Employees (LM-2)

Local 135 did not include lost time payments reimbursed by the local to the employer for officers and employees in Schedule 11 (All Officers and Disbursements to Officers) and Schedule 12 (Disbursements to Employees). The local union erroneously itemized these payments and reported them in Schedules 19 (Union Administration).

The union and the employer have an agreement that the employer will pay union officers' and employees' wages when they take off from work to perform union business. The initial payment to the employee is made by the employer. Throughout the year, the union reimburses the employer for all payments made to union officers and employees when they are performing union business.

Local 135 should report the amount that it reimburses the employer, Goodyear/Dunlop, in Schedule 11 and Schedule 12 of the Form LM-2 by each officer and employee's name with an explanation in Item 69 (Additional Information) that the wages are paid by reimbursing the employer.

2. Failure to Report Dues Receipts and Per Capita Payments

During the period, the International Union received the dues checkoff directly from the employer on behalf of Local 135. The International then disbursed part of the dues checkoff amount to the NYS AFL-CIO for per capita dues payments. Local 135 did not report in Item 36 (Dues and Agency Fees) of Statement B (Receipts and Disbursements) the amount of dues deducted by the International for payments to the NYS AFL-CIO on the local's behalf. This amount should be reported in Item 36 and also as a disbursement on the LM-2 in Item 56 (Per Capita Tax) on Statement B.

I am not requiring that Local 135 file an amended LM report for 2010 to correct the deficient items, but Local 135 has agreed to properly report the deficient items on all future reports it files with OLMS.

I want to extend my personal appreciation to Steelworkers, AFL-CIO Local Union 135 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,



Investigator

cc: Mr. Mark F. Kurkowski, President
Mr. Frank Bystrak, Treasurer