

U.S. Department of Labor

Employment Standards Administration
Office of Labor-Management Standards
Honolulu Resident Office
300 Ala Moana Boulevard
Room 5-121
Honolulu, HI 96850
(808) 541-2705 Fax: (808) 541-2719



May 2, 2008

Mr. Arthur B. Tolentino, Financial Secretary-Treasurer
Sheet Metal Workers AFL-CIO LU 293
1405 North King Street, Room 401
Honolulu, HI 96817

LM File Number: 038-672
Case Number: [REDACTED]

Dear Mr. Tolentino:

This office has recently completed an audit of Sheet Metal Workers AFL-CIO LU 293 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, President Michael Afuso, and Office Manager Sandra Urata on April 9, 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.

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 293's 2007 records revealed the following recordkeeping violations:

1. General Reimbursed and Credit Card Expenses

Local 293 did not retain adequate documentation for credit card expenses incurred by Financial Secretary-Treasurer Arthur Tolentino totaling at least \$5,900. For example, the itemized receipts provided by the restaurants were not maintained for meal expenses incurred on union business.

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. Union Owned/ Leased Vehicles

The union did not maintain records necessary to verify the accuracy of the information reported in Schedules 11 (All Officers and Disbursements to Officers) and 12 (Disbursements to Employees) of the LM-2.

Local 293 incurred expenses totaling at least \$8,300 for automobiles during 2007. However, Local 293 did not maintain records documenting business versus personal use of the union vehicles.

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

For each trip they take using a union owned or leased vehicle, officers and employees must maintain mileage logs that show the date, number of miles driven, whether the trip was business or personal, and, if business, the purpose of the trip.

Based on your assurance that Local 293 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 conditions and operations. The Labor Organization Annual Report Form LM-2 filed by Local 293 for fiscal year ending June 30, 2007, was deficient in the following areas:

1. Disbursements to Officers

Local 293 did not report the names of some officers and the total amounts of payments to them or on their behalf in Schedule 11 (All Officers and Disbursements to Officers). The union must report in Schedule 11 all persons who held office during the year, regardless of whether they received any payments from the union.

The union must report in Column F of Schedules 11 and 12 (Disbursements for Official Business) direct disbursements to officers and employees for reimbursement of expenses they incurred while conducting union business. In addition, the union must report in Column F of Schedules 11 and 12 indirect disbursements made to another party (such as a credit card company) for business expenses union personnel incur. However, the union must report in Schedules 15 through 19 indirect disbursements for business expenses union personnel incur for transportation by public carrier (such as airline) and for temporary lodging expenses while traveling on union business. The union must report in Column G (Other Disbursements) of Schedules 11 and 12 any direct or indirect disbursements to union personnel for expenses not necessary for conducting union business.

2. Automobile Expenses

Local 293 did not include in the amounts reported in Schedule 11 (All Officers and Disbursements to Officers) and Schedule 12 (Disbursements to Employees) disbursements for the operation and maintenance of union automobiles totaling at least \$8300.

The LM-2 instructions provide two methods for reporting automobile-related expenses. The union must report in Schedules 11 and 12 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). The union may divide the expenses and report them 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 officer or employee used the vehicle 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 officer or employee used the vehicle partly for official business.

I am not requiring that Local 293 file an amended LM report for 2007 to correct the deficient items, but Local 293 has agreed to properly report the deficient items on all future reports it files with OLMS.

Other Violation

The audit disclosed the following other violation:

Inadequate Bonding

The audit revealed a violation of LMRDA Section 502 (Bonding), which requires that union officers and employees be bonded for no less than 10 percent of the total funds those individuals or their predecessors handling during the preceding fiscal year.

Local 293's officers and employees are currently bonded for \$440,000, but they must be bonded for at least \$500,000. Local 293 should obtain bonding coverage for its officers and employees immediately. Please provide proof of bonding coverage to this office as soon as possible, but not later than May 12, 2008.

Other Issues

1. Personal use of Credit Cards

The audit revealed that Local 293 permits officers and employees to use union credit cards to pay for personal expenses. Although officers and employees promptly repaid Local 293 for the personal expenses charged, OLMS does not recommend policies that allow personnel to make personal purchases with the union credit cards because this may lead to misuse of union funds.

2. Use of Signature Stamp

During the audit, Financial Secretary-Treasurer Arthur Tolentino advised that it is Local 293's practice for Financial Secretary-Treasurer Arthur Tolentino and/or President Michael Afuso to sign all union checks and for either of these two officers to occasionally stamp the signature of Financial Secretary-Treasurer Arthur Tolentino and/or President Michael Afuso on union checks. Financial Secretary-Treasurer Arthur Tolentino indicated that no one but the one officer signing the check, which is himself or President Michael Afuso, reviews the checks before they are issued. Article Thirteen of the Sheet Metal Workers International Constitution requires that checks be signed by the president and treasurer. 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, the use of a signature stamp for the second signer does not attest to the authenticity of the completed check, and negates the purpose of the two signature requirement. OLMS recommends that Local 293 review these procedures to improve internal control of union funds.

I want to extend my personal appreciation to Sheet Metal Workers AFL-CIO LU 293 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. Michael T. Afuso, President