

U.S. Department of Labor

Office of Labor-Management Standards
Minneapolis Resident Investigator Office
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October 5, 2010

Chad Little, President
Transportation Union Ind. Local 233
224 4th Avenue NE
Aberdeen, SD 57401

LM File Number: 043-916
Case Number: [REDACTED]

Dear Mr. Little:

This office has recently completed an audit of Transportation Union Ind. Local 1833 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 Scott Gale on May 26, 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 233's 2009 records revealed the following recordkeeping violations:

1. Receipt Dates not Recorded

Entries in Local 233's cash receipts journal reflect the date money was deposited but not the date money was received. Receipts records must show the date of receipt. The date of receipt is required to verify, explain, or clarify amounts required to be reported in Statement B (Receipts and Disbursements) of the LM-3. The LM-3 instructions for Statement B state that receipts must be recorded when money is actually received, and disbursements must be recorded when money is actually paid out. Failure to record the date money was received could result in reporting some receipts for a different year than the one in which they were received.

2. Lost Wages

Local 233 did not retain adequate documentation for lost wage reimbursement payments to Local Chairman East Troy Plummer and Local Chairman West Brian Carpenter totaling at least \$3,047 in 2009. The audit found that Messrs. Plummer and Carpenter submitted another members' time sheet (rather than their own) to verify that they were off. This, of course, does not verify that the claimant was off. Also, there was no record of the specific union business conducted. For example, one voucher read, "Went to Northtown for meetings and was off."

While it does not recommend any specific format, OLMS suggests that labor organizations use detailed vouchers to support lost time payments. Your union's lost time voucher should include, at a minimum, the following information: the date of each claim, the total hours claimed, the hourly rate of pay, and the *specific* union business conducted. "Union business," "meeting," and "grievance work" are not sufficiently specific. A better explanation would be, for example, "Negotiations preparations; met with local union officers to determine strategies." OLMS recommends that the voucher also include the beginning and ending times of the hours lost each day so that the union can compare the claim to employer payroll records to verify the number of hours lost.

I have enclosed OLMS' compliance tip entitled, "Union Lost Time Payments" which includes a sample lost time voucher.

Based on your assurance that Local 233 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 233 for fiscal year ending December 31, 2009, was deficient in that:

Disbursements to Officers

Unions are required to report in Item 24 (All Officers and Disbursements to Officers), the name of all persons who held office during the reporting period in Column A (Name); their title in Columns B (Title); their status in Column C (Status); gross salary (before taxes and other deductions) including disbursements for "lost time" or time devoted to union activities in Column D (Gross Salary); and allowances and other disbursements in Column E (Allowances and Other Disbursements). When reporting the officer's status, union's must use "N" for a new officer who took office during the reporting period; "P" for a past officer who was not in office at the end of the reporting period; or "C" for a continuing officer who was in office before the reporting period and was still in office at the end of the reporting period.

Local 233 did not report the names, title, or status of Mr. Plummer or Mr. Carpenter in Item 24. Disbursements of \$2,505 to Mr. Plummer and disbursements of \$2,896 to Mr. Carpenter were not reported in Item 24.

With respect to Treasurer Scott Gayle, \$947 was reported next to his name in Item 24, Column E (Allowances and Other Disbursements). Although the total amount is correct, \$867 of this amount should have been reported in Column D (Gross Salary) and \$80 in Column E (Allowances and Other Disbursements).

Local 233 reported all officers' status as "P" for a past officer while all should have been listed as "C" for a continuing officer.

Local 233 must file an amended Form LM-3 for the fiscal year ended December 31, 2009, to correct the deficient items discussed above. I provided you with a blank form and instructions, and advised you that the reporting forms and instructions are available on the OLMS website (www.olms.dol.gov). The amended Form LM-3 should be submitted

Mr. Chad Little
October 5, 2010
Page 4 of 4

to this office at the above address as soon as possible, but not later than October 26 2010. Before filing, review the report thoroughly to be sure it is complete, accurate, and signed properly with original signatures.

I want to extend my personal appreciation to Transportation Local 233 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,

A solid black rectangular box redacting the signature of the sender.

Senior Investigator

cc: Scott Gale, Treasurer