

U.S. Department of Labor

Office of Labor-Management Standards
Denver District Office
1999 Broadway, Suite 1150
Denver, CO 80202-5712
(720) 264-3232 Fax: (720) 264-3230



June 29, 2012

Mr. Samuel L. Johnson
Business Manager/Secretary-Treasurer
Sheet Metal Workers AFL-CIO Local Union 312
2261 South Redwood Road
Suite 16
Salt Lake City, UT 84119

Case Number: [REDACTED]
LM Number: 015998

Dear Mr. Johnson:

This office has recently completed an audit of Sheet Metal Workers AFL-CIO Local Union 312 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 and SMW LU 312 Office Administrator Christy Bushman on June 12, 2012, 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.

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 312 for the fiscal year ended June 30, 2011, was deficient as follows.

1. Item 10 – During the reporting period did the labor organization create or participate in the administration of a trust or a fund or organization, as defined in the instructions, which provides benefits for members or beneficiaries?

Local 312 answered the question incorrectly with "No." The audit disclosed that the local participates in the administration of a trust which provides benefits for members. The union must answer the question with "Yes" and provide in Item 69 (Additional Information) the full name, address and purpose of each trust or other fund. If a report has been filed for the trust or other fund under the Employee Retirement Income Security Act of 1974 (ERISA), report in Item 69 the EIRSA filed number (Employer Identification Number – EIN) and plan number, if any.

2. Item 21 – Dues and Fees - The instructions require that the union enter the dues and fees established by the labor organization, if more than one rate applies, enter the minimum and maximum rates.

Local 312 filled out Line (a) Regular Dues/Fees incorrectly. The audit disclosed that the union has more than one rate of dues for regular members. The minimum and maximum rates must be entered in Line (a). Also, Local 312 filled out Line (c) Initiation Fees incorrectly. The audit disclosed that the union has different initiation fees for the members employed in the building trades and those employed as industrial and production workers. The minimum and maximum fees must be entered in Line (c).

3. Schedule 6 – Fixed Assets - The instructions require that the union report details all fixed assets, such as land, buildings, automobiles and other vehicles, office furniture and equipment owned by the labor organization at the end of the reporting period. Land and buildings must be itemized.

Local 312 did not report in Column (A), Lines 1 and 3 in detail the location of the land and the building of the labor organization. The union must enter the street address for each.

4. Schedule 11 - Disbursements to Officers – The instructions require that the union list all of the labor organization’s officers and report all salaries and other direct and indirect disbursements to officers during the reporting period, report the percentage of time spent by each officer in the categories provided, and enter the total amount of withheld taxes, payroll deductions, and all other deductions on the “Less Deductions” line.

Local 312 reported 3 of the 16 officers who held office during the reporting period where all officers must be reported. The union incorrectly omitted deductions for payroll taxes, which resulted in incorrectly reported net disbursements. The union must report in Columns A, B and C, the officers’ names, office position, and status, respectively. The status of each officer is one of the following: “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. The union must report in Columns F through H, total amounts of payments to the officers or on their behalf and if an officer received no payments directly or on his behalf then a zero must be entered in the respective columns. The union must allocate the officers percentage of time spent in the categories provided in Row I, as appropriate. For all officers who were paid a salary or stipend, the union must enter the total amount of withheld taxes, payroll deductions, and all other deductions on the “Less Deductions” line. Once the correct amount is entered in the “Less Deductions” line, the “Net Disbursements” will be correctly reported.

5. Schedule 12 – Disbursements to Employees - The instructions require that the union enter the total amount of withheld taxes, payroll deductions, and all other deductions on the “Less Deductions” line.

Local 312 incorrectly omitted deductions for payroll taxes, which resulted in incorrectly reported net disbursements for the employees listed. For all employees who were paid a salary, the union must enter the total amount of withheld taxes, payroll deductions, and all other deductions on the “Less Deductions” line. Once the correct amount is entered in the “Less Deductions” line, the “Net Disbursements” will be correctly reported.

6. Failure to Itemize Disbursements or Receipts - Schedule 14 – Other Receipts, Schedule 15 – Representational Activities, Schedule 16 – Political Activities and Lobbying, Schedule 17 – Contributions, Gifts & Grants, Schedule 18 General Overhead, and Schedule 19 – Union Administration – The instructions require that the union provide detailed information on the financial operations of the labor organization.

Local 312 reported “UT” in Column A for Schedules 14 through 19 with no further identifying information; these entries must be corrected. Local 312 did not properly report entries in Column A for “major” transactions in Schedule 15 and Schedule 18 and on the Detailed Summary Page – Schedules 14 through 19. A “major” transaction includes any individual transaction of \$5,000 or more or total transactions to or from any single entity or individual that aggregate to \$5,000 or more during the reporting period and which the local cannot properly report elsewhere in Statement B.

- a. The audit disclosed that during the audit period the union made 12 payments totaling \$7,886.25 to American Express issued by Zions Bank and listed in the union’s books under organizing. For Schedule 15, the instructions state, in part, to “report the labor organization’s direct and indirect disbursements to all entities and individuals...to recruit new members.” Schedule 15 showed no itemizations for the American Express charges made by Local 312 Organizer Robert Romero and must be corrected.
- b. The audit disclosed that during the audit period the union made 5 payments of \$1,000 each to Pitney Bowes. For Schedule 18, the instructions state, in part, to “report the organization’s direct and indirect disbursements to all entities and individuals during the reporting period associated with general overhead that cannot be allocated to any of the other disbursements categories in Statement B.” Schedule 18 showed no itemizations for the Pitney Bowes disbursements and must be corrected.
- c. The audit disclosed that during the audit period the union made 12 payments totaling \$17,317.53 to American Express issued by Bank of Utah and listed in the union’s books under general. For Schedule 18, the instructions state, in part, to

Mr. Samuel L. Johnson
June 29, 2012
Page 4 of 4

“report the organization’s direct and indirect disbursements to all entities and individuals during the reporting period associated with general overhead that cannot be allocated to any of the other disbursements categories in Statement B.” Schedule 18 showed no itemizations for the American Express charges made by Local 312 Business Manager/Secretary-Treasurer Samuel Johnson and Local 312 Business Representative Lloyd Cummings and must be corrected.

Local 312 must file an amended Form LM-2 for the fiscal year ended June 30, 2011, to correct the deficient items discussed above. I explained to you the filing procedures and the availability of filing software on the OLMS website (www.olms.dol.gov). The amended Form LM-2 must be electronically filed as soon as possible, but not later than July 23, 2012. Before filing, review the report thoroughly to be sure it is complete and accurate, and properly signed with electronic signatures.

I want to extend my personal appreciation to Sheet Metal Workers AFL-CIO Local Union 312 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