

U.S. Department of Labor

Employment Standards Administration
Office of Labor-Management Standards
Minneapolis Resident Investigator Office
900 Second Avenue South, Suite 450
Minneapolis, MN 55402
(612)370-3111 Fax: (612)370-3107



November 17, 2008

Ms. Cynthia Habas, President
Steelworkers AFL-CIO Local 9225
7541 Highway 238
Little Falls, MN 56345

LM File Number: 519-237
Case Number: [REDACTED]

Dear Ms. Habas:

This office has recently completed an audit of Steelworkers Local 9225 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, Financial Secretary Marlene Hopwood, Treasurer Corliss Wochnick, and Recording Secretary Deborah Witucki on October 2, 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 9225's 2007 records revealed the following recordkeeping violations:

1. Lack of Salary Authorization

The audit revealed that the president, secretary-treasurer, recording secretary, and financial secretary receive a monthly salary of between \$77 and \$86 per month in addition to a "stipend" of \$50 per month. Such payments are reportable on Local 9225's Labor Organization Annual Report (Form LM-3) in Item 24 (All Officer and Disbursements to Officers) in Column D (Gross Salaries). Local 9225 did not retain records showing that those payments were the authorized amounts and were therefore correctly reported. During the audit, you and Ms. Hopwood advised that salary authorizations could be found in the meeting minutes dating back to January 2005; however, a review of the meeting minutes did not reveal authorization of the stipend or salary payments. Local 9225 must keep a record, such as meeting minutes, to show the current salary authorized by the entity or individual with the authority to establish salaries.

2. Disposition of Assets

Local 9225 gave away \$420 in cash prizes at the Christmas party, but did not maintain records that identified the recipients of the cash.

While it is not necessary to itemize every recipient of a prize other than cash in item 56 (Additional Information) of the LM-3 report, a record must be maintained that verifies the identity and number of the recipients of prizes given away. In the instance of cash prizes, the union must retain a record that identifies the name and amount of the cash prize disbursed to each person. These records are required to be retained to support payments reported on the LM-3 report.

3. Lost Wages

Local 9225 did not retain adequate documentation for lost wage reimbursement payments to officers in many instances. Records must be maintained in support of lost wage claims that identify each date lost wages were incurred, the number of

hours lost on each date, the applicable rate of pay, and a description of the union business conducted. The audit found that Local 9225, officers did not provide an adequate description of the union business conducted on lost time vouchers.

During the audit you advised that you are paid for an hour of "lost time" each month to update the union membership records regardless if you are losing any wages from your employer to do so. Those claims were also documented using the local's lost time vouchers, reflecting that the claim for was for lost wages rather than pay for personal time worked on union business.

If Local 9225 pays its officers for hours worked on union business other than for lost wages and in addition to salaries paid to them, claims for such payments should not be documented with lost time vouchers. Instead, the records retained must clearly reflect that the payments were for personal hours worked and were paid in addition to the officer's normal salary.

Based on your assurance that Local 9225 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 Sections 201(a) and 201(b), which requires labor organizations to file annual financial reports accurately disclosing their financial condition and operations and to file certain information disclosing certain provisions and procedures. The Labor Organization Annual Report (Form LM-3) filed by Local 9225 for fiscal year ending December 31, 2007, was deficient in the following areas. In addition, Local 9225 failed to file changes to its provisions made for certain types of disbursements.

1. Disbursements to Officers and Employees

Local 9225 erroneously reported the titles of some officers in Item 24 (All Officers and Disbursements to Officers). Linda Woznick, Joyce Pietrowski, Jackie Preimsberger, and Bernie Sovari were all listed as committee persons when they are actually trustees. Additionally, Marie Majaski and Shirley Treb were listed as committee persons in Item 24 and a committee person is not an officer position in Local 9225. "Officer" is defined in section 3(n) of the LMRDA as "any constitutional officer, any person authorized to perform functions..."

Disbursements to these individuals should be reported in Item 46 (Disbursements to Employees) even if your organization does not consider them to be employees.

2. 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. The LM-1 (Labor Organization Information Report) filed by Local 9225 in 1988 mentions that Local Union By-Laws will be filed if approved by the International Union. However, Local 9225 has its own bylaws dated April 26, 1994, but did not file a copy with its LM report for that year.

Local 9225 has now filed a copy of its constitution and bylaws.

3. Failure to file Procedures and Provisions for Authorization of Disbursements

Section 201(a) of the LMRDA states that "every labor organization shall adopt a constitution and bylaws and shall file a copy thereof with the Secretary...." In addition to filing a constitution and bylaws, labor organizations must also submit a report detailing, among other things, "detailed statements, or references to specific provisions of documents filed under [Section 201(a)] which contain such statements, showing the provisions made and procedures followed with respect to ...authorization for disbursement of funds of the labor organization...." Section 201(a) also 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.

In order to comply with the reporting requirement of Section 201(a), Local 9225 indicated on the LM-1 filed in 1988 that its provisions and procedures followed for the authorization of disbursement of funds are identified in Article VIII of the International Union Constitution. The current International Constitution filed with OLMS dated April 14, 2005 states in Article V, Section 5(c) that "all money paid out by the Local Union from its treasury must be approved by the membership at a Local Union meeting." Section 5(d) states "recurring standard bills (fixed salaries which have been previously authorized...) may be paid by the Treasurer on a single authorization by the Local Union to pay such bills due."

As noted above, Local 9225 filed a copy of its bylaws during the audit. Sections 2 and 3 contain provisions authorizing amounts to be paid for lost time, mileage,

and food allowances. The bylaws do not identify the provisions made or procedures followed concerning the payment of "recurring standard bills."

The audit revealed Local 9225 never adopted a single authorization to pay any standard bills and that all disbursements (including those for recurring standard bills) are authorized by the president and treasurer and are not approved by members at meetings or made pursuant to standing membership authorizations. For example, no standing authorization could be found for the various salary, expense, mileage allowance, rent allowance, and stipend payments paid to officers, and the bylaws contain no provisions that identify the procedures followed or provisions made to authorize such payments.

In order to comply with Section 201(a), Local 9225 must report the provision made and procedures followed with the respect to the authorization of disbursement of allowances. The information may be incorporated into Local 9225's bylaws or filed with an amended Labor Organization Information Report (LM-1).

I am not requiring that Local 9225 file an amended LM-3 report for 2007 to correct the deficient items, but Local 9225 has agreed to properly report the deficient items on all future reports it files with OLMS.

Other Issues

The audit disclosed the following other issues:

1. Withheld Taxes/Payroll Deductions

Local 9225's records show that officers receive a monthly \$50 stipend, a mileage allowance of 40 miles paid at the IRS rate, rent and the monthly salaries noted above. Income taxes were withheld from salary and lost wage payments but not from any of the other payments noted above. You should be aware that the other payments may also be subject to income tax reporting.

While this office has no authority to interpret the state or federal tax code, I recommend you contact the Internal Revenue Service and obtain the following two publications: Circular E, Employer's Tax Guide (Publication 15) and Supplemental Employer's Tax Guide (Publication 15-A). These two publications, as well as other information about employment taxes for small organizations, can be found on the IRS website at www.irs.gov. Circular E discusses employees, taxable wages and

compensation, the calculation of withholding taxes, and FUTA. The Supplemental Employer's Tax Guide contains employment tax information on employees of exempt organizations (the IRS categorizes labor organizations as tax exempt organizations under the Internal Revenue Code 501(c) (5)).

2. Lost Wages

As discussed above, Local 9225 pays its officers for wages lost while conducting union business and for union business conducted on personal time. However, Local 9225 does not have a written policy that identifies the circumstances under which payments can be made or how payments are to be calculated.

I strongly suggest that Local 9225 take steps to record its lost wage reimbursement policies in union records by discussing them at a future meeting and recording the policies in meeting minutes, or by amending the bylaws, or by recording the information in some other document. I would appreciate it if you would forward a copy of the record documenting the policy to me at the above address.

Verification of lost time claims submitted by union personnel by either allowing trustees to compare lost time claims to employer records or by requiring union personnel to submit proof of lost wages claimed (for example time cards) can be an effective internal control for such payments.

I want to extend my personal appreciation to Steelworkers Local 9225 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: Financial Secretary Marlene Hopwood
Treasurer Corliss Wochnick
Recording Secretary Deborah Witucki