

U.S. Department of Labor

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April 2, 2009

Mr. Gerald McDonald, Treasurer
Security Police
Local 249
P.O. Box 15128
Kansas City, MO 64106-0128

LM File Number 541-133

Case Number: [REDACTED]

Dear Mr. McDonald:

This office has recently completed an audit of Security Police Local 249 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, Brian Cliss, and Dana Peterson on March 20, 2009, 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.

The CAP disclosed the following:

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 249's 2008 records revealed the following recordkeeping violations:

1. General Reimbursed and Credit Card Expenses

Local 249 did not retain adequate documentation for reimbursed expenses and credit card expenses incurred by President Tony Swan, Vice President Jerry Jeffery, and you totaling at least \$2,000. For example, several purchases made at Office Max and Office Depot totaling over \$450 have no receipts to verify the purchases were made for legitimate 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. Meal Expenses

Local 249 did not require officers and employees to submit itemized receipts for meal expenses totaling at least \$200. The union must maintain itemized receipts provided by restaurants to officers and employees. These itemized receipts are necessary to determine if such disbursements are for union business purposes and to sufficiently fulfill the recordkeeping requirement of LMRDA Section 206.

Local 249 records of meal expenses did not always include written explanations of union business conducted or the names and titles of the persons incurring the restaurant charges. For example, most receipts did not have any explanation written on them and the few that did had simply "meal" written on the receipt or

voucher, this is not enough detail. At least \$972 worth of meals did not have sufficient explanation as to the union purpose for the meal and who attended. Union records of meal expenses must include written explanations of the union business conducted and the full names and titles of all persons who incurred the restaurant charges. Also, the records retained must identify the names of the restaurants where the officers or employees incurred meal expenses.

3. Receipt Dates not Recorded

Entries in Local 249's receipts journal reflect the month the union received a direct deposit, but not the specific date money was received. Union receipts records must show the date of receipt in their own books, the bank's record is not enough. 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 the labor organization must record receipts when it actually receives money and disbursements when it actually pays out money. Failure to record the date money was received could result in the union reporting some receipts for a different year than when it actually received them.

4. Lack of Salary Authorization

Local 249 did not maintain records to verify that the salaries reported in Item 24 (All Officer and Disbursements to Officers) of the LM-3 was the authorized amount and therefore was correctly reported. The union must keep a record, such as meeting minutes, to show the current salary authorized by the entity or individual in the union with the authority to establish salaries.

The proper maintenance of union records is the personal responsibility of the individuals who are required to file Local 249's LM report. You should be aware that under the provisions of Section 209(a) of the LMRDA and Section 3571 of Title 18 of the U.S. Code, willful failure to maintain records can result in a fine of up to \$100,000 or imprisonment for not more than one year, or both. Under the provisions of Section 209(c) of the LMRDA and Section 3571 of Title 18 of the U.S. Code, willful destruction or falsification of records can result in a fine of up to \$100,000 or imprisonment for not more than one year, or both. The penalties provided in Section 209(c) and Section 3571 of Title 18 of the U.S. Code apply to any person who caused the violations, not just the individuals who are responsible for filing the union's LM report.

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 249 for fiscal year ending March 31, 2008, was deficient in the following areas:

1. Disbursements to Officers

Local 249 did not include some reimbursements to officers totaling at least \$5,000 in the amounts reported in Item 24 (All Officers and Disbursements to Officers). It appears the union erroneously reported these payments in Items 48 and 54.

The union must report most direct disbursements to Local 249 officers and some indirect disbursements made on behalf of its officers in Item 24. A "direct disbursement" to an officer is a payment made to an officer in the form of cash, property, goods, services, or other things of value. This would include payments made for an officer's cell phone equipment and/or usage. See the instructions for Item 24 for a discussion of certain direct disbursements to officers that do not have to be reported in Item 24. An "indirect disbursement" to an officer is a payment to another party (including a credit card company) for cash, property, goods, services, or other things of value received by or on behalf of an officer. However, indirect disbursements for temporary lodging (such as a union check issued to a hotel) or for transportation by a public carrier (such as an airline) for an officer traveling on union business should be reported in Item 48 (Office and Administrative Expense).

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. Local 249's constitution and bylaws were amended in 2005, but the local did not file a copy with its LM report for that year.

Local 249 has now filed a copy of its constitution and bylaws.

I am not requiring that Local 249 file an amended LM report for 2008 to correct the deficient items, but Local 249 has agreed to properly report the deficient items on all future reports it files with OLMS.

Other Issues

Information not Recorded in Meeting Minutes

During the audit, you advised OLMS that the membership does not approve expenses at meetings, and by past practice, everything is automatically approved. When things do need approval, it is done at executive board meetings where minutes have never been kept. Article XXXIII of your constitution and bylaws requires that expenses "must be approved by the Local Union in regular meeting." Minutes of all membership meetings must report any disbursement authorizations made at these meetings in accordance with your union's constitution and bylaws. Also, it is strongly suggested the local begin keeping minutes at its executive board meetings, as disbursements are currently being authorized at these meetings.

I want to extend my personal appreciation to Security Police Local 249 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: Brian Cliss, President
Dana Peterson, Recording Secretary