

U.S. Department of Labor

Employment Standards Administration
Office of Labor-Management Standards
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July 9, 2009

Ms. Marcia Reaves, Financial Secretary-Treasurer
Transportation Communications Union AFL-CIO
Local Lodge 2500
2556 Waterbury Drive
Woodridge, IL 60517

LM File Number 517-066

Case Number: [REDACTED]

Dear Ms. Reaves:

This office has recently completed an audit of TCU Local Lodge 2500 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, John Falaris, Kathryn Yarka and Norma Thompson on June 18, 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 violations:

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 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 TCU Local Lodge 2500's 2008 records revealed the following recordkeeping violations:

1. Lack of Documentation for General Reimbursed Expenses

The Local Lodge did not maintain adequate records of authorization for disbursements during fiscal year ending December 31, 2008. Although there is no specific constitutional requirement for the Local Lodge to maintain trustee reports, executive board or membership meeting minutes, failing to do so leaves the Local Lodge without a means to document authorizations for expenditures.

The audit found that during the fiscal year Local Lodge 2500 did not retain adequate documentation for telephone expenses of approximately \$2000. Approximately \$900 of this amount was for reimbursements made to District Chair Frank Bernal for his use of his personal cell phone for union business. The audit found that Mr. Bernal routinely submitted only the monthly transaction receipt that he obtained after paying the bill. Bernal's total bill, ranged between \$75 and \$140 each month. The audit found that these amounts covered the full cost of his personal phone. In addition, Mr. Bernal failed to maintain a log of business calls made on his personal phone. Although Mr. Bernal was reimbursed his business telephone expenses despite Local Lodge 2500 owning a cellular phone specifically for the use of the district chair, the Local Lodge failed to maintain any record of authorization for Mr. Bernal to be reimbursed for the use his personal cellular phone. The Local Lodge failed to require Mr. Bernal to retain supporting documentation for the calls he submitted for reimbursements.

Ms. Reaves, you retained control of the Local Lodge's cellular phone during most of fiscal year ending December 31, 2008, and you paid the associated phone bills,

averaging from \$90 to \$140 per month, using the Local Lodge's debit card. The Local Lodge originally purchased this phone for the use of the District Chair. Mr. Bernal declined to use this phone and opted instead to use his personal phone for union business. The audit found that you failed to submit itemized phone bills or maintain a log detailing your business and personal use of this phone. There is no record of you being authorized to use this phone on a continuous basis either for business or personal use.

The nature of the district chair position may well require rapid responses with little to no time to seek prior approval of expenses. The Local Lodge's current disbursement procedures do not require an officer to obtain authorization period to incurring an expense. The expenses are reviewed after the fact by the president, financial secretary-treasurer and chair of the trustees. District Chair Bernal routinely submitted vouchers for expenses incurred which lacked adequate explanations of the union purpose requiring the expense. An adequate explanation would have contained the starting time of the meeting, who attended, where the meeting occurred and the time the meeting was completed.

The audit found two occasions were Mr. Bernal submitted vouchers and receipts for round-trip cab rides between his home and the Metra station in Aurora, IL. The records submitted do not contain a time for the return portions of the rides. Mr. Bernal wrote on his vouchers that these rides were required because he came into work early to conduct investigations. Mr. Bernal's individual vouchers do not explain why the cab expense became required for his return trip. Mr. Bernal's normal shift begins at 3:00pm and ends at 11:00pm. The audit found that the vouchers submitted by Mr. Bernal's for these cab rides lacked adequate documentation supporting the union purpose or time of the return trips on both occasions.

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. Lost Wages

Local Lodge 2500 did not retain adequate documentation for lost wage reimbursement payments to you, District Chair Frank Bernal, or President John Falaris. The total of these payments during fiscal year ending December 31, 2008

were \$2,468.26. The audit found that the Local Lodge lacks a concise or consistent written policy controlling lost wage reimbursements. The audit found that the Local Lodge failed to adhere to TCU Internal policy on lost wage reimbursement as stated in the *FST's Handbook* on page 68.

The audit found multiple instances where you, Frank Bernal and John Falaris claimed lost wages when no wages were lost and multiple instances of the executive board having reviewed and authorized the reimbursement despite no wages being lost. The audit found that the documentation retained failed to adequately explain the time of day, place and purpose requiring the officer to lose wages.

Mr. Falaris rounded up the time recorded on several lost time claims to include time spent conducting union meetings during his lunch breaks. The audit found that District Chair Bernal provided inadequate documentation of the nature and exact time of the union business conducted, opting instead to list "time claim" or "investigations" on his vouchers. In one instance, Mr. Bernal claimed 8 hours to attend the FST training's dinner. However, the union had no record that Mr. Bernal attended the FST training in question.

Ms. Reaves, the audit noted several instances where you claimed lost time for working on Saturdays even though employer records show that you were not scheduled to work. In addition, OLMS found three instances where you claimed lost wages during the week (Monday through Friday) with no such loss being recorded by your employer.

It should be noted, that each of the three officers listed received a monthly salary to perform their constitutional duties. During the fiscal year, District Chair Bernal received \$800 in monthly compensation. At his averaged hourly rate, the Local Lodge paid Bernal the equivalent of 43.5 hours each month to perform his elected duties. As Financial Secretary-Treasurer Ms. Reaves, you received \$800 a month, which was the equivalent of 39.9 hours at your averaged hourly rate. President John Falaris received \$400 a month or an equivalent of 19.5 hours of pay at his averaged hourly rate. The Local Lodge officer's belief that they were entitled to receive compensation for anytime they conducted union business is contrary to the stated policy of the International Union and further detailed in the *TCU FST's Handbook*. The written policy states that lost wages should be paid only when wages are actually docked by the carrier.

3. Disposition of Property

Local Lodge 2500 did not maintain an inventory of property it purchased, sold, or gave away. The union must report the value of any union property on hand at the beginning and end of each year in Item 30 (Other Assets) of the LM-3. The union must retain an inventory or similar record of property on hand to verify, clarify, and explain the information that must be reported in Item 30. During the fiscal year, Local Lodge 2500 purchased a laptop computer for the use of President Falaris, yet no records other than the purchase order was retained for union records. The purchase of the computer does not appear on the LM-3 report. Local Lodge 2500 owned and operated at least two other computers and printers during FYE December 31, 2008, the Local Lodge does not have an inventory lists of these items. None of these items appears on the LM-3 report. Local Lodge 2500 must develop and maintain an inventory list of all union property and assets.

4. Information not Recorded in Meeting Minutes

Local Lodge 2500 does not maintain meeting minutes. Meeting minutes are required by the International Constitution as assigned job duty of the local lodge recording secretary. Although Local Lodge 2500 currently does not have anyone serving in the capacity of recording secretary, without meeting minutes, the Local Lodge lacks any record or documentation of authorizations for items such as purchases, lost time payments, salary payments or appointments to Local Lodge offices.

5. Meal Expenses

The audit found approximately \$500 in meal expenses without itemized receipts to document the expenditures. 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 Lodge 2500 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, on several occasions Mr. Bernal attended distant union meetings and submitted vouchers including meals that he paid for with union funds for union members after the meetings. However, no

names of those present at these meals or the nature union business discussed was included on the vouchers.

Ms. Reaves, on several occasions you made ATM withdrawals to pay for meals for the executive board and membership during meetings. A review of the supplied documentation only included the voucher and a transaction receipt from the vendor. There were no listings of who attended these meetings, what union business was discussed and in some cases no itemized receipts.

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. In addition, the records retained must identify the names of the restaurants where the officers or employees incurred meal expenses.

The proper maintenance of union records is the personal responsibility of the individuals who are required to file Local Lodge 2500's 2008 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 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 Lodge 2500 for fiscal year ending December 31, 2008, was deficient in the following areas:

1. Liabilities

The FYE December 31, 2008 LM-3 report failed to list a tax liability to the IRS of approximately \$12,000 in Item 36 (Total Liabilities). As stated in the LM-3 instructions, liabilities must be recorded at the start of the reporting period (Column C) and at the end of the reporting period (Column D).

2. Disbursements to Officers

Local Lodge 2500 failed to include all expense payments issued to Frank Bernal on Item 24 (All Officers And Disbursements to Officers) of the FYE December 31, 2008 LM-3 report. It appears that the local lodge erroneously reported these payments in Items 48 (Office and Administrative Expense) or Item 54 (Other Disbursements). All direct payments, allowances and other disbursements made to an officer, as detailed in the LM-3 instructions should be included in Item 24.

3. Dollars and Cents

The LM-3 report submitted by Local Lodge 2500 for fiscal year 2008 included cents. The LM-3 instructions require that report amounts should be reported in dollars only and that cents should be rounded to the nearest dollar.

Local Lodge 2500 must file an amended Form LM-3 for fiscal year ending December 31, 2008, to correct the deficient items discussed above. The amended Form LM-3 should be submitted to this office at the above address as soon as possible, but not later than August 31, 2008. Before filing, review the report thoroughly to be sure it is complete, accurate, and signed properly with original signatures.

Other Violations

The audit disclosed the following other violation(s):

1. 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 handled during the preceding fiscal year. Local Lodge 2500's officers and employees are currently bonded for \$5,000, but they must be bonded for at least \$6,469.37. Local Lodge 2500 should obtain adequate bonding coverage for its officers and employees immediately. Please provide proof of bonding coverage to this office no later than July 30, 2009.

I want to extend my personal appreciation to TCU Local Lodge 2500 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

Ms. Marcia Reaves
July 9, 2009
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passed on to future officers. If we can provide any additional assistance, please do not hesitate to call.

Sincerely,

[REDACTED]

Investigator

cc: John Falaris, Local Lodge 2500 President
Michelle Reese, TCU Grand Lodge Auditor