

U.S. Department of Labor

Employment Standards Administration
Office of Labor-Management Standards
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June 29, 2009

Mr. Mark Pisca, President
IBEW Local 1791
318 South 3rd Avenue, Room 10
Wausau, WI 54401

LM File Number: 053-115
Case Number: [REDACTED]

Dear Mr. Pisca:

This office has recently completed an audit of IBEW Local 1791 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 Treasurer LouAnn Clark on May 28, 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.

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 1791's 2008 records revealed the following recordkeeping violations:

1. Failure to Record Receipts

Local 1791 did not record in its receipts records several receipts to the charitable and recreation fund for the sale of tickets for the annual Christmas party totaling at least \$1,700. The audit revealed that Local 1791 did not retain sufficient records for receipts deposited to union accounts other than the checking account. Union receipts records must include an adequate identification of all money the union receives. The records should show the date and amount received, and the source of the money.

2. Receipt Dates not Recorded

The check register and other receipt records maintained by Local 1791 failed to identify dates money was actually received by the local. The dues ledger maintained by Financial Secretary Dale Mrozcenski does not include any receipt dates and the receipt dates identified in the check register are dates that often precede the issue date on the actual deposited items. Union 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 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.

3. Insufficient Records of Assets

Fixed assets totaling \$5,521 and \$4,197 were reported in Items 29(A) and 29(B) respectively, on the LM-3 report filed by Local 1791 for fiscal year ending June 30, 2008. Local 1791 also reported \$155 and \$0 in Other Assets (Items 30(A) and 30(B), respectively). However, the union did not retain any records to support how those figures were determined. The LMRDA requires that records be maintained on matters that must be reported on the LM Report, such as fixed and other assets.

4. General Reimbursed Expenses

Adequate documentation was not retained for reimbursed expenses incurred by several officers totaling more than \$1,000. For example, check # [REDACTED] paid to Vice President Dennis Zimmerman in the amount of \$264.92 included reimbursement for travel expenses to Atlantic City; however, Local 1791 retained documentation that supported only \$88.99 of those expenses.

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.

5. Information not Recorded in Meeting Minutes

During the audit, you advised OLMS that the membership must authorize "non-ordinary" disbursements such as the purchase of hats or t-shirts. However, meeting minutes retained for fiscal year 2008 do not document authorization of any such disbursements even though Local 1791 disbursed at least \$3,400 for such items during fiscal year 2008. Because Local 1791 requires that such disbursements be authorized by the membership, meeting minutes or other documentation must be retained which document the membership's authorization of such disbursements.

6. Lack of Salary Authorization

The audit revealed that Ms. Clark received \$1,200 in salary during fiscal year 2008. However, Local 1791 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. Local 1791 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.

Based on your assurance that Local 1791 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 1791 for fiscal year ending June 30, 2008, was deficient in the following areas:

1. Acquire/Dispose of Property

Item 13 (During the reporting period did your organization acquire or dispose of any assets in any manner other than by purchase or sale?) should have been answered, "Yes," because the union gave away hats, t-shirts, and pens totaling more than \$3,000 during the year. The union must identify the type and value of any property received or given away in the additional information section of the LM report along with the identity of the recipient(s) or donor(s) of such property. The union does not have to itemize every recipient of such giveaways by name. The union can describe the recipients by broad categories if appropriate such as "members" or "new retirees."

2. Disbursements to Officers

Disbursements to officers totaling at least \$1,600 were not included in the amounts reported in Item 24 (All Officers and Disbursements to Officers). It appears the union erroneously reported these payments in Item 54 (Other Disbursements).

The union must report most direct disbursements to Local 1791 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. 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).

3. Fees, Fines, Assessments, and Work Permits

Local 1791 failed to report initiation fees totaling over \$2,900 in Item 40 (Fees, Fines, Assessments, and Work Permits). These receipts were erroneously reported in Item 38 (Dues).

4. Total Disbursements

The records maintained by Local 1791, including bank statements and disbursement records, revealed that Local 1791 disbursed over \$127,000 during fiscal year 2008, however only \$124,531 in total disbursements were reported in Item 55 (Total Disbursements). During the exit interview, Treasurer Clark confirmed that it was likely that at least some of the disbursements from the charitable and recreation fund and the death benefit fund were not included in the disbursements reported on the LM-3.

The purpose of Statement B (Receipts and Disbursements) is to report all cash flowing in and out of your organization, not just in and out of your local's checking account. Therefore, all disbursements, regardless of which account they were disbursed from, must be reported in one of the categories of disbursements (Items 45-54) and included in the total disbursements figure (Item 55).

I am not requiring that Local 1791 file an amended LM report for 2008 to correct the deficient items, but Local 1791 has agreed to properly report the deficient items on all future reports it files with OLMS.

Other Violations

The audit disclosed the following other violation:

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 1791's officers and employees were bonded for \$25,000 at the onset of the audit; however, the funds handled by the local totaled \$272,400 (cash at the beginning of the year plus total receipts) during fiscal year 2008 and therefore officers and employees needed to be bonded for at least \$27,240. Local 1791

obtained adequate bonding coverage and provided evidence of this to OLMS during the audit. As a result, OLMS will take no further enforcement action regarding this issue.

I want to extend my personal appreciation to IBEW Local 1791 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: LouAnn Clark, Treasurer
Dale Mroczenski, Financial Secretary
David Tessmer, Executive Board