

**U.S. Department of Labor**

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June 22, 2009

Ms. Elaise Fox, President  
Food and Commercial Wkrs  
Local 1657  
2013 First Ave North, Suite 300  
Birmingham. Al 35203

LM File Number: 016-150  
Case Number: [REDACTED]

Dear Ms. Fox:

This office has recently completed an audit of Local 1657 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, Secretary-Treasurer Donald Wright, Executive Secretary Kay Green, Organizer Rodney Dillard, and Union Attorney Glenn Connor on June 12, 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 1657's 2008 records revealed the following recordkeeping violations:

1. Meal Expenses

Local 1657 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, a meal receipt dated 01-24-08 (Mobile, AL) in the amount of \$67.71 was present in the union files and the meal was paid for with union funds. The meal receipt (or attached document) did not have the names and titles of the attendees at the meal and the nature of union business discussed during the meal. 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.

2. Failure to Maintain Records for Bank Account

Local 1657 did not record in its records the monies or transactions for a checking account at Regions Bank. This account did not have a union receipt or disbursement log/ledger or any type of electronic union record. Union receipt/disbursement records must include an adequate identification of all money the union receives and/or spends. The records should show the date and amount received, the date and amount spent and the source of the money.

3. Failure to Maintain Records for Disbursements

Local 1657 did not retain adequate documentation for disbursements and/or expenses totaling at least \$801.60. For example, a disbursement dated 8-12-08 for \$76.05 payable to Country Hearth Inn for lodging did not have an invoice, or receipt. In addition a disbursement dated 10-10-08 for \$354.31 payable to [REDACTED] for union security did not have an invoice or receipt.

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.

4. Automobiles

The union did not maintain records necessary to verify the accuracy of the information reported in Schedule 11 (All Officers and Disbursements to Officers)

of the LM-2 for President Elaise Fox and Former Secretary/Treasurer Allen Martindale. In addition the general membership authorization/approval of the personal use of union vehicles by President Fox and Martindale was not located.

Local 1657 incurred expenses totaling at least \$16,701.61 for the automobiles assigned to President Fox or Allen Martindale during 2008. Local 1657 did not maintain records documenting business versus personal use of the union vehicles. Additionally no mileage logs or purpose trip logs were used for the vehicles.

The LM-2 instructions include specific rules for the reporting of automobile expenses. The union must report operating and maintenance costs for each of its owned or leased vehicles in Schedules 11, allocated to the officer or employee to whom each vehicle is assigned. For each trip they take using a union owned or leased vehicle, officers and employees must maintain mileage logs that show the date, number of miles driven, whether the trip was business or personal, and, if business, the purpose of the trip.

5. Failure to Maintain Records for Loans

Local 1657 did not maintain records, such as a loan agreement or promissory note, to verify/annotate the \$100,000.00 loan received from RWDSU Joint Council 932 in June 2005. Neither the Executive Board nor the general membership was aware that President Fox had obtained the loan. There was no record of the loan being obtained in the minutes. The union must keep records, such as meeting minutes, promissory notes, or receipt records for all loans it obtains.

Based on your assurance that Local 1657 will retain adequate documentation in the future, OLMS will take no further enforcement action at this time regarding the above violation.

Reporting Violations

The audit disclosed violations 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 1657 for fiscal year ending December 31, 2008, was deficient in the following areas:

1. Failure to File By Laws

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 1657 amended its constitution and bylaws in 1999, but did not file a copy with its LM report for that year or any year since. As agreed, Local 1657 will file a copy of its current constitution and bylaws with OLMS as soon as possible but not later than July 3, 2009.

2. Failure to Itemize Disbursement or Receipt

Local 1657 did not properly report several transaction(s) in Schedule 17, Contributions, Gifts, and Grants. For example the audit found that Local 1657 spent \$2,682.14 on contributions, gifts, and grants for the FYE 12-31-2008. The local inappropriately reported \$2,960.00 on Line 52 of the LM-2 report. Schedule 17 must be completed to accurately reflect those expenditures.

3. Disbursements to Officers and Employees

Local 1657 did not include reimbursements to officers and employees totaling at least \$3,109.75 in Schedule 11 (All Officers and Disbursements to Officers) and Schedule 12 (Disbursements to Employees). The audit revealed President Fox had \$2,297.04 in cell phone disbursements and Organizer Dillard had \$812.71 in cell phone disbursements.

The union must report in Column G (Other Disbursements) of Schedules 11 and 12 any direct or indirect disbursements to union personnel for expenses, goods, or services that were essentially for the personal benefit of the officer and/or employee and not necessary for conducting union business.

4. Rental Receipts

Local 1657 did not properly report their rental receipts on Line 42 of the LM-2. The investigation revealed Local 1657 had received \$81,656.76 in rental receipts from their tenants for the FYE 12-31-2008. 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.

5. Sufficient Details Required on LM-2 Report

Verification of the union's bonding revealed the union is bonded for \$195,000, however; Line 14 was incorrectly annotated with \$165,000. Schedule 19 does not contain adequate explanations; for example the address and full location.

Local 1657 must file an amended Form LM-2 for fiscal year ending December 31, 2008, 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](http://www.olms.dol.gov)). The amended Form LM-2 must be electronically filed as soon as possible, but not later than July 3, 2009. Before filing, review the report thoroughly to be sure it is complete and accurate, and properly signed with electronic signatures.

Other Issue

Use of Signature Stamp

During the audit, President Fox, Officer Manager Everett, and Executive Assistant Green advised that Local 1657 uses a signature stamp for President Fox and the Secretary/Treasurer Position (Martindale and Wright) as a matter of routine business to endorse union checks. The union indicated the practice was for convenience. Local 1657's By Laws requires that checks be signed by the president and treasurer. The two signature requirement is an effective internal control of union funds. Its purpose is to attest to the authenticity of a completed document already signed. However, the use of a signature stamp for the second signer does not attest to the authenticity of the completed check, and negates the purpose of the two signature requirement. OLMS recommends that Local 1657 review these procedures to improve internal control of union funds.

I want to extend my personal appreciation to Local 1657 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,

Ms Elaise Fox  
June 22, 2009  
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Investigator

cc: Secretary/Treasurer Donald Wright