

U.S. Department of Labor

Employment Standards Administration
Office of Labor-Management Standards
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June 26, 2009

Mr. Robert McDonald, Local President
United Transportation Union
Local 898
28 Lufkin Court
Warwick, RI 02888-3201

LM File Number 012-794
Case Number: ||| ||| ||| |||

Dear Mr. McDonald:

This office has recently completed an audit of UTU Local 898 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, Treasurer Francis Teague, and Recording Secretary Maureen Rae on June 26, 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 recordkeeping violations, reporting violations, and other issues.

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 898's 2007 records revealed the following recordkeeping violations:

1. General Reimbursed Expenses

Local 898 did not retain adequate documentation for reimbursed expenses incurred by union officers totaling at least \$1,100. For example, reimbursements for grievance case expenses, cell phone expenses, and election expenses did not have any documentation to verify the expenses incurred.

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. Other Expenses

Local 898 did not retain adequate documentation for local expenses totaling at least \$1,950. These expenses included: local donations and office and administrative expenses such as internet service and meeting 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.

3. Lost Wages

Local 898 did not retain adequate documentation for lost wage reimbursement payments to President Robert McDonald, Treasurer Francis Teague, Local Chairman Donald Wheaton, and Alternate Delegate Paul Battista totaling at least \$10,100. The union must maintain records 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 OLMS audit found that Local 898 did not retain any documentation for lost wage reimbursements paid.

During the exit interview, I provided a sample of an expense voucher Local 898 may use to satisfy this requirement. The sample identifies the type of information and documentation that the local must maintain for lost wages and other officer expenses.

4. Local Receipts

Local 898 did not retain adequate documentation for local receipts totaling at least \$8,400. These receipts included dues payments received during the fiscal year ending December 31, 2007.

As previously noted above, labor organizations must retain at least one record showing the date, amount, purpose, and source of money received. The president and treasurer of your union, who are required to sign your union's LM report, are responsible for properly maintaining union records.

5. Receipt Dates not Recorded

Entries in Local 898's receipts journal reflect the date the union deposited money, but not the date money was received. 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.

6. Failure to Account for Receipts

Local 898's receipts records listed at least \$125 in receipts that were received from the United Transportation Union International Office, however, documentation verifying the deposit or disbursement of the receipt was not retained. All union receipts must be accounted for with adequate documentation to verify the deposit of a receipt or expenditure of a receipt for union expenses.

7. Information not Recorded in Meeting Minutes

Section VI of the By-laws for the United Transportation Union Local 898, dated June 9, 2006, requires that disbursements of local funds, except as already approved in the by-laws, need to be approved by the local membership at a regularly scheduled meeting prior to the disbursement. However, the minutes of the meetings do not contain any reference to expense payments over the by-laws monthly limit for Local Chairman Donald Wheaton and advanced salary payments received by Treasurer Francis Teague during the fiscal year ending December 31, 2007. Minutes of all membership or executive board meetings must report any disbursement authorizations made at those meetings.

The proper maintenance of union records is the personal responsibility of the individuals who are required to file Local 898'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 apply to any person who caused the violations, not just the individuals who are responsible for filing the union's LM report.

Based on your assurance that Local 898 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 898 for fiscal year ending December 31, 2007, was deficient in the following areas:

1. Disbursements to Officers

Local 898 did not include some reimbursements to officers totaling at least \$100 in the amounts reported Item 24 (All Officers and Disbursements to Officers). It appears the union erroneously reported these payments in Item 48 (Office and Administrative Expense).

The union must report most direct disbursements to Local 898 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).

2. Failure to Report Receipts

Local 898 did not report at least \$125 in receipts received during the fiscal year ending December 31, 2007, in Statement B. The Statement B instructions state that receipts must be recorded when money is actually received by the labor organization.

3. 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 898 amended its constitution and bylaws in 2006, but did not file a copy with its LM report for that year.

Local 898 has now filed a copy of its constitution and bylaws.

I am not requiring that Local 898 file an amended LM report for 2007 to correct the deficient items, but Local 898 has agreed to properly report the deficient items on all future reports it files with OLMS.

Other Issues

1. Retention of Unused and Voided Checks

Local 898 did not maintain an unused check for the fiscal year ending December 31, 2007. The local did not list the unused check in the local's disbursement journal nor use or void the check. Also, Local 898 did not maintain its voided checks for the fiscal year ending December 31, 2007. All voided and unused checks should be retained by the local. OLMS recommends that Local 898 review these procedures to improve internal control of union funds.

2. Signing Blank Checks

During the audit, you and Treasurer Francis Teague advised that President Robert McDonald signs blank checks. Your union's bylaws require that all 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, signing a blank check in advance does not attest to the authenticity of a completed check, and negates the purpose of the two signature requirement. OLMS recommends that Local 898 review these procedures to improve internal control of union funds.

Mr. Robert McDonald

June 26, 2009

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I want to extend my personal appreciation to UTU Local 898 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,

Mark Letizi
District Director

cc: Francis Teague, Treasurer
Maureen Rae, Recording Secretary