

U.S. Department of Labor

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

Mr. Robert Nix, Financial Secretary
Iron Workers, AFL-CIO
Local 92
2828 4th Ave S
Birmingham, Al 35233

LM File Number: 034-852
Case Number: [REDACTED]

Dear Mr. Nix:

This office has recently completed an audit of Local 92 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, President Larry Smith, and Office Manager Barbara Bishop on March 5, 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 92's 2008 records revealed the following recordkeeping violations:

1. Meal Expenses

Local 92 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 04-27-08 (Destin, FL) in the amount of \$67.78 was present in the union files; however, the receipt (or attached document) did not have the names of the attendees at the meal and the nature of union business discussed during the meal. A meal receipt dated 10-28-08 (Gulf Shores, AL) in the amount of \$59.77 was present in the union files; however, the receipt (or attached document) did not have the names 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. Fixed Assets

Local 92 did not have a fixed asset list or inventory sheet that could be located for the audit year or any previous year. The union had fixed assets, including, but not limited to: vehicles, computers, printers, fax machine, office furniture, kitchen appliances, real estate, and the union hall building. The proper maintenance of union records is the responsibility of the president and treasurer (or corresponding principal officers) of your union who are required to sign your union's LM report.

3. Vacation Policy

The By Laws authorize two weeks per officer/employee per year and one week of that may be paid in cash in lieu of days off for vacation. No record was present indicating the vacation days accrued, awarded, used, or paid in cash in lieu of days off, for the full time officers and employees of the union. The president and treasurer (other corresponding principal officers) of your union, who are required to sign your union's LM report, are responsible for properly maintaining union records

Based on your assurance that Local 92 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 violations of LMRDA Section 201(a&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 92 for fiscal year ending June 30, 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 92 amended its constitution and bylaws in 2001, 2004, and 2008, but did not file a copy with its LM report for that year. As agreed, Local 92 will file a copy of its current constitution and bylaws with OLMS as soon as possible but not later than March 23, 2009.

2. Certificates of Deposit Reported As Investments

Local 92 improperly included the value of certificates of deposit as investments on Schedule 5 (Investments). For LM reporting purposes, OLMS considers a certificate of deposit to be cash. The purchase or redemption of a certificate of deposit is a transfer of cash from one account to another and, therefore, the local should not report these transactions as receipts or disbursements.

I am not requiring that Local 92 file an amended LM report for 2008 to correct the deficient items, but Local 92 has agreed to properly report the deficient items on all future reports it files with OLMS.

Other Violation

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. The audit revealed that Local 92's officers and employees were not bonded for the minimum amount required (\$443,801.00) at the time of the audit; however, the union 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 Local 92 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: President Larry Smith