

U.S. Department of Labor

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Office of Labor-Management Standards
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March 24, 2009

Mr. Greg Roth, President
Transportation Union Ind Local 1614
2407 Mayfair Avenue
St. Paul, MN 55110-4867

LM File Number: 013-936
Case Number: [REDACTED]

Dear Mr. Roth:

This office has recently completed an audit of UTU Local 1614 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 Secretary-Treasurer Andrew Clark on February 19, 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 1614's 2007 and 2008 records revealed the following recordkeeping violations:

1. General Expenses

Local 1614 did not retain adequate documentation for expenses incurred by the union and Local Chairman Dan Paradise totaling at least \$1,300. For example, no receipt was retained for airfare that Mr. Paradise charged to his personal credit card for a trip to the regional meeting in Nashville during 2007. Mr. Paradise was reimbursed for the expense, along with several other union-related expenses, in September 2008. In addition, while Mr. Paradise did have receipts for the majority of the expenses, the union business conducted that required the expenses be incurred was not always clear.

As noted above, labor organizations must retain original receipts, bills, and vouchers for all disbursements. The president and treasurer (or corresponding principal officers), who are required to sign your union's LM report, are responsible for properly maintaining union records.

2. Meeting Expenses

The audit revealed that Local 1614 holds its regular membership meeting at the VFW Post in South St. Paul. Mr. Clark advised that the union pays the bar tab for refreshments served to members at meetings. However, no supporting documentation is retained for these expenses. The check stubs indicate that the payments were only for "rent" and not for refreshments. As noted above, original bills and invoices that identify the good or services received along with additional documentation identifying the business purpose of the expenses must be retained by the union. This information is needed to verify, clarify, and support the Labor Organization Annual Report (Form LM-3) required to be filed with OLMS

3. Receipt Dates not Recorded

Local 1614 receives dues payments from Union Pacific Railroad each month. Entries in Local 1614's cash receipts control record reflect the date money was

owed to the union but not the date money was received. Receipts records must show the date funds were received by the union. 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 receipts must be recorded when money is actually received and disbursements must be recorded when money is actually paid out.

4. Lack of Salary Authorization and Lost Time Records

Local 1614 did not maintain records to verify that the salaries reported in Item 24 (All Officers and Disbursements to Officers) and Item 46 (Disbursements to Employees) of the LM-3 were the authorized amounts and were therefore correctly reported. Meeting minutes from January 2005 show that the secretary-treasurer's salary was set at \$175/month and the local chairman's salary was set at \$200/month. However, both officers currently receive \$400/month plus lost time payments, when applicable. You confirmed that you believe the current salary being paid to these two officers is the approved amount. However, the authorization of the current salary amounts does not appear in union records. Local 1614 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.

In addition to the \$400/month salary that Secretary-Treasurer Andrew Clark and Local Chairman Dan Paradise received during the audit period, both officers received lost time payments that appear to have been included with regular salary payments. Mr. Paradise and Mr. Clark received lost wage payments totaling at least \$1,400 during fiscal year 2007. 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 audit found that Local 1614 did not retain any records regarding the additional lost time payments.

During the exit interview, I provided a sample of an expense voucher Local 1614 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.

The proper maintenance of union records is the personal responsibility of the individuals who are required to file Local 1614's LM report. You should be aware that

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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 1614 will retain adequate documentation in the future, OLMS will take no further enforcement action at this time regarding the above violations. However, as Mr. Clark and I discussed at the exit interview, Local 1614's records will be reviewed by OLMS sometime in the next year to ensure that the recordkeeping violations noted above have been corrected.

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 1614 for fiscal year ending December 31, 2007, the most recent year for which Local 1614 has filed a report, was deficient in the following areas:

1. Item 13 - 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 various prizes at the union's annual Christmas party in 2007 totaling more than \$450. The type and value of any property received or given away must be identified in the additional information section of the LM report along with the identity of the recipient(s) or donor(s) of such property. For reporting purposes, each recipient need not be itemized. Recipients can be described by broad categories, if appropriate, such as "members" or "new retirees."

2. Item 24 – All Officers and Disbursements to Officers and Item 46 – Disbursements to Employees

Local 1614 reported no payments to officers or employees for expenses in Item 24 and Item 46. It appears these payments were erroneously reported in either Item 48 (Office and Administrative Expense) or Item 54 (Other Disbursements).

Most direct disbursements to Local 1614 officers and employees and some indirect disbursements made on behalf of its officers and employees must be reported in Item 24 or Item 46. 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. Item 25 - Cash

On the union's 2006 LM-3 report, the union reported a cash balance of \$12,278 on December 31, 2006 in Item 25B (End of Year Cash). However, Local 1614 reported only \$8,644 in cash assets (Item 25A) on the union's 2007 LM-3 report. These figures should be the same. The audit revealed that the union cash balance was actually \$12,278 on January 1, 2007.

4. Item 38 – Dues

The amount reported in Item 38 is incorrect. It appears from the union's cash receipts control ledger that the union records its receipts using the accrual method of accounting. As previously noted, the LM-3 instructions for Statement B state that receipts must be recorded when money is actually received. Therefore, the January 2007 dues that were actually received and deposited into the union's checking account in December 2006 must be included on the union 2006 LM report.

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5. Item 55 – Total Disbursements

The amount reported in Item 55 (Total Disbursements) is incorrect. Local 1614 reported \$59,440 in disbursements during 2007. However, the audit revealed that the union's check stubs identify disbursements totaling \$57,939 and the bank statements reflect disbursements totaling \$57,836. Disbursements are required to be reported on the LM-3 for the year that money was actually paid out.

Local 1614 must file an amended Form LM-3 for fiscal year ending December 31, 2007, to correct the deficient items discussed above. I am including a blank form and instructions. In addition, reporting forms and instructions are available on the OLMS website (www.olms.dol.gov). The amended Form LM-3 should be submitted to this office at the above address as soon as possible, but not later than April 6, 2009. Before filing, review the report thoroughly to be sure it is complete, accurate, and signed properly with original signatures.

Other Issues

Timely Deposit of Union Funds

Local 1614 had more than \$7,000 in undeposited checks on hand at the end of 2008 according to union receipts records. These checks were received early to mid-December 2008. Because these checks were not deposited until mid-January 2009, the union had a negative balance in the union's checking account at the end of 2008. As a result, the union was charged overdraft fees for two checks. OLMS recommends that checks be deposited as soon as possible to ensure effective internal control of union funds and help avoid incurring overdraft fees.

I want to extend my personal appreciation to UTU Local 1614 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,

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Investigator

cc: Secretary-Treasurer Andrew Clark