

U.S. Department of Labor

Office of Labor-Management Standards
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October 9, 2009

Michael Brigante, Financial Secretary
Food & Commercial Workers,
Local Union 76C
1091 Payne Avenue
N. Tonawanda, NY 14120

LM File Number: 023-240

Case Number: [REDACTED]

Dear Mr. Brigante:

This office has recently completed an audit of Food & Commercial Workers, Local Union 76C 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 on October 8, 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 UFCW, Local 76C's records for fiscal year ending June 30, 2009 revealed the following recordkeeping violations:

1. General Expenses

Local 76C did not retain supporting documentation for a few disbursements totaling at least \$486. The union failed to retain receipts to support \$400 in expenses for the Christmas gathering. In addition, there were no receipts to the Postmaster for the purchase of stamps.

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. Meal Expenses

Local 76C did not retain itemized receipts for meal expenses totaling at least \$533. The union must maintain itemized receipts provided by restaurants to officers and employees. These itemized receipts are necessary to determine if such disbursements are for union business purposes and to sufficiently fulfill the recordkeeping requirement of LMRDA Section 206.

Union records of meal expenses must include not only the itemized receipt but also written explanations of the union business conducted and the full names and titles of all persons who incurred the restaurant charges.

2. Lost Wages

UFCW Local 76C did not retain adequate documentation for lost wage payments to President Douglas Parker and Financial Secretary Michael Brigante totaling at least \$2,842 for attendance at arbitrations.

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 76C only maintained the gross wages that were reimbursed and the purpose of that reimbursement. The local did not identify the specific dates and the number of hours lost each day.

Based on your assurance that Local 76C 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 UFCW Local 76C for fiscal year ending June 30, 2009 was deficient in the following areas:

1. All Officers and Disbursements to Officers

Local 76C did not properly report gross salary to officers in Item 24 (All Officers and Disbursements to Officers), Column D (Gross Salary). The union reported the net payments to officers in Column D and did not report the deductions withheld on Line 10 of Item 24.

In addition, Local 76C did not include some reimbursements to officers totaling at least \$588 in the amounts reported in Item 24, Column E (Allowances and Other Disbursements). It appears the union erroneously reported these payments in Item 48 (Office and Administrative Expense).

Furthermore, the union did not report the name of several officers and the total amounts of payments to them or on their behalf in, if applicable. The union must report in Item 24 all persons who held office during the year, regardless of whether they received any payments from the union.

The union must report most direct disbursements to 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. Bond Amount

The union reported the maximum amount recoverable under the organization's fidelity bond to be \$10,000 when in fact, the union is actually bonded for \$100,000. This amount is calculated based on funds handled in the preceding fiscal year. The amount should be reviewed annually for accuracy.

I am not requiring that Local 76C file an amended LM-3 report for 2009 to correct the deficient items, but Local 76C has agreed to properly report the deficient items on all future reports it files with OLMS.

I want to extend my personal appreciation to Local 76C for the cooperation and courtesy extended during this compliance audit. I strongly recommend that you make sure this letter and any 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,

[REDACTED]

Investigator

cc: Douglas Parker, President

[REDACTED]