



June 2, 2010

Mr. Anthony Shultz, Secretary-Treasurer
UTU Local 228
1550 Highview Drive
Mt. Vernon, IA 52314

LM File Number 037-573
Case Number: [REDACTED]

Dear Mr. Shultz:

This office has recently completed an audit of UTU Local 228 under the Compliance Audit Program (CAP) to determine your organization's compliance with the provisions of the LMRDA. As discussed during the exit interview with you and former Secretary-Treasurer William Krejci on April 30, 2010, 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 228's 2009 records revealed the following recordkeeping violations:

1) General Reimbursed Expenses

Local 228 did not retain adequate documentation for reimbursed expenses incurred by union officers and employees totaling at least \$1,300. For example, two employees attended a CRANDIC contract meeting in Madison, Wisconsin. Each employee was reimbursed \$224.88; however, the local did not retain receipts or invoices to verify that the amount of reimbursed expenses was correct.

As 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 228 did not require officers and employees to submit itemized receipts for meal expenses totaling at least \$150. 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 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.

3) Information not Recorded in Meeting Minutes

Section IV of Local 228's bylaws states that all disbursements not included in the bylaws must be approved by membership. The only provisions for disbursements in the local's bylaws are for the salary of the president and secretary-treasurer and a stipend for the board of trustees. The membership meeting minutes mention that issues were discussed, but do not contain details of what membership approved. Minutes of all membership or executive board meetings must report any disbursement authorizations made at those meetings (ex. motion for approval, passage of motion, approval for travel, approval for purchase, amount of disbursement).

4) Lack of Salary Authorization

Local 228 did not maintain records to verify that the salaries reported in Item 24 (All Officer and Disbursements to Officers) of the LM-3 was the authorized amount and therefore was correctly reported. The union must keep a record, such as meeting minutes, to show the current salary authorized by the entity or individual in the union with the authority to establish salaries.

Based on your assurance that Local 228 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 (LM-3) filed by Local 228 for the fiscal year ended December 31, 2009, was deficient in the following areas:

1) Disbursements to Officers

Local 228 did not include some reimbursements to officers totaling at least \$6400 in the amounts reported in Item 24 (All Officers and Disbursements to Officers). It appears the union erroneously reported these payments in Item 54 Other Disbursements.

The union must report most direct disbursements to Local 228 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 Itemize Disbursements

Local 228 did not properly itemize disbursements. The local categorized over 98 percent of disbursements as Other Disbursements (Item 54) on the LM-3 report. Pages 13 and 14 of the LM-3 instructions prescribe the proper categorization of disbursements. For example, payments to members who are not constitutional officers of the local should be reported in Item 46 To Employees, and payments of per capita tax to the UTU should be reported in Item 47 Per Capita Tax.

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 228 amended its constitution and bylaws in 2009, but did not file a copy with its LM report for that year.

Local 228 has now filed a copy of its constitution and bylaws.

4) Cash Reconciliation

It appears that the figures reported on the LM report for beginning cash, ending cash, and total disbursements are not correct. Page 11 of the LM-3 instructions states that the union should obtain account balances from its books as reconciled to the balances shown on bank statements. The amounts reported on the LM report varied significantly from reconciled book balances.

5) Waiving Officer Dues

Rather than pay a salary to the president, monthly dues deducted from his paycheck by the employer were reduced by \$10.00. The local reported a salary of \$120 for President Richard Lee in Item 24 of the LM report; however, this was not an actual disbursement by the local. To ensure better internal financial controls, greater transparency to members, and a more accurate LM-3 report, officers should be required to pay all dues and then be reimbursed by the union. Dues reimbursements should be included in Item 24 D or E and Item 45 To Officers of the LM-3 report.

Local 228 has now filed an amended Form LM-3 for the fiscal years ended December 31, 2008 and December 31, 2009.

Other Issues

1) Expense Policy

As I discussed during the exit interview with you and Mr. Krejci, the audit revealed that Local 228 does not have a clear policy regarding the types of expenses personnel may claim for reimbursement. OLMS recommends that unions adopt written guidelines concerning such matters.

2) Use of Signature Stamp

During the audit, you and Mr. Krejci advised that it is Local 228's practice for the secretary-treasurer to sign all union checks and to stamp the signature of the president on union checks. You and Mr. Krejci indicated that no one but the secretary-treasurer reviews the checks before they are issued. Article 64 of the Constitution of the United Transportation Union requires that checks be signed by the treasurer and countersigned by the president. 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 228 review these procedures to improve internal control of union funds.

I want to extend my personal appreciation to you and Mr. Krejci for the cooperation and courtesy

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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: Richard Lee, President