

U.S. Department of Labor

Office of Labor-Management Standards
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May 5, 2010

Mr. James Kelleher, President
Longshoremen's Assn., AFL-CIO
Local 1294
106 Smith Blvd.
Albany, NY 12202

Case Number: [REDACTED]
LM Number: 012567

Dear Mr. Kelleher:

This office has recently completed an audit of Longshoremen's Assn., AFL-CIO 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 and Secretary Treasurer John Andolina on April 20, 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 1294 records for fiscal year ending September 30, 2008 records revealed the following recordkeeping violations:

1. Credit Card Expenses

Local 1294 did not retain adequate documentation for Master Card credit expenses incurred by you, totaling at least \$1,124 for automobile related expenses and \$731 in miscellaneous expenses; and by Secretary Treasurer Andolina totaling at least \$315 for automobile related expenses and \$517 in miscellaneous expenses.

Additionally, Local 1294 did not retain adequate documentation for Exxon Mobil credit card charges for both you (totaling \$4,016.21) and Secretary Treasurer Andolina (totaling \$3,986.46).

As previously noted above, labor organizations must retain original receipts, bills, and vouchers for all disbursements. As principal officers of your union, you and Secretary Treasurer Andolina are required to sign your union's LM report, and are responsible for properly maintaining union records.

2. Disposition of Property

Local 1294 did not maintain an inventory of sweatshirts and other union property it purchased and gave away. The union must report the value of any union property on hand at the beginning and end of each year in Item 30 (Other Assets) of the LM-3. The union must retain an inventory or similar record of property on hand to verify, clarify, and explain the information that must be reported in Item 30. The union must record in at least one record the date and the property it gave away as a benefit to union membership.

3. Information not Recorded in Meeting Minutes

As you explained during the opening and closing interviews, you and Secretary Treasurer Andolina are supposed to be compensated with a tankful of gas once a week as part of your compensation for performing your officer duties. As we discussed, you agreed to present this past practice to the executive board and membership for discussion and clarification as to validity and purpose as no mention of this policy could be found in past meeting minutes.

If the policy is affirmed, the policy must be committed to writing and reflected in the meeting minutes. Minutes of all membership or executive board meetings must report any disbursement authorizations made at those meetings.

Based on your assurance that Local 1294 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 1294 for fiscal year ending September 30, 2008, was deficient in the following areas:

1. Acquire/Dispose of Property

Item 13 on Form LM-3, ("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 sweatshirts totaling more than \$1,300 during the year. The union must identify the type and value of any property received or given away in the additional information section of the LM report, Item 56, (Additional Information), along with the identity of the recipient(s) or donor(s) of such property. The union does not have to itemize every recipient of such giveaways by name. The union can describe the recipients by broad categories if appropriate such as "members."

2. Disbursement to Officers

Local 1294 did not include in the amounts reported in Item 24 (All Officers and Disbursements to Officers) all the disbursements for the operation and maintenance of the personal automobiles of at least \$920 for you and at least \$1,605 for Secretary Treasurer Andolina. The LM-3 instructions for Item 24 require that the local include in Column E of Item 24 (Allowances and Other Disbursements) the total maintenance and operating costs paid for by the union for any personal automobile used for union business by officer.

The union must report most direct disbursements to Local 1294 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).

3. Certificates of Deposit Reported as Other Assets

Local 1294 improperly included the value of two certificates of deposit (CD) in Item 30 (Other Assets) in Statement A (Assets and Liabilities). 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. Local 1294 reported \$10,000 in Item 52 (Purchase of Investments and Fixed Assets) and explained it as purchase of CD in Item 56, Additional Information.

On your next LM Report, Local 1294 should report the change in reporting of the CD's in Item 56 to note the increase in cash on hand at the beginning of the period for Item 25 (Cash) and the decrease in Item 30 (Other Assets).

I am not requiring that Local 1294 file an amended LM report for 2008 to correct the deficient items, but Local 1294 has agreed to properly report the deficient items on all future reports it files with OLMS.

I want to extend my personal appreciation to Longshoremen's Assn., AFL-CIO 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 I can provide any additional assistance, do not hesitate to call.

Sincerely,



Senior Investigator

cc: Mr. John Andolina, Secretary Treasurer