



July 12, 2011

Mr. Kim Hooey, President
Longshoremen's Association AFL-CIO Local 1000
1302 Minneapolis Ave
Duluth, MN 55803

Case Number: [REDACTED]
LM Number: 015859

Dear Mr. Hooey:

This office has recently completed an audit of Longshoremen's Association AFL-CIO Local 1000 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 Financial Secretary Jim Olaf on June 17, 2011, 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 1000's 2009 and 2010 records revealed the following recordkeeping violations:

1. Reimbursed Expenses

Local 1000 did not retain adequate documentation for reimbursed expenses incurred by you totaling at least \$2,689 in 2009. For example, you were reimbursed \$2,552.11 to cover airfare, lodging, baggage fees, and meals for you and Financial Secretary Jim Olaf to attend

the International Longshoremen's Association Convention in Florida. You submitted an expense voucher to Local 1000 with copies of your personal credit card statements that identified the expenses for which you were reimbursed. However, you failed to retain any of the original receipts for the expenses. At my request during the OLMS Compliance Audit, you contacted the airline and hotel and obtained copies of the hotel and airfare receipts.

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. Meal Expenses

Local 1000 did not require officers and employees to submit itemized receipts for meal expenses totaling at least \$583 in 2009. Itemized receipts provided by restaurants to officers and employees must be retained. 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.

Also, Local 1000 records of meal expenses did not always include written explanations of union business conducted or the names and titles of the persons incurring or receiving the benefit of the restaurant charges. For example, International Association Representative Dick Gabel was reimbursed by Local 1000 for meal expenses he incurred while assisting with Midwest Energy Resources Company (MERC) contract negotiations. Mr. Gabel turned in at least \$217 in meal receipts related to two trips to Superior, WI, but did not identify the names of who was present for the meals. In addition, most of the receipts retained in support of the meal expenses were the signature copies of the credit card receipts, while several of the expenses were incurred at restaurants where detailed receipts are typically provided.

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. Salary and Lost Wages

Local 1000 did not retain adequate records that show how the gross and net amounts reported in Item 24 (Disbursements to Officers) and Item 46 (Disbursements to Employees) were calculated. Local 1000 recorded only the gross amounts of salary and lost wage checks in its records, but reported some payroll deductions in Item 24 and included a net disbursements (after withholding taxes) in Item 46. However, the union's ledger shows that the local did not withhold any income taxes from disbursements to officers for salaries and lost wage reimbursements. During the audit Mr. Olaf stated that although he does not withhold payroll taxes from lost wage checks, he issues quarterly checks to taxing authorities for the employer portion of social security and Medicare taxes. The local must keep a record, such as the

accountant's workpaper or some similar record that supports the figures reported on the LM-3 report and shows how those amounts were calculated.

Additionally, Local 1000 did not retain adequate documentation for lost wage reimbursement payments to officers and employees totaling at least \$16,689 in 2009 and \$5,739 in 2010. During the audit, Mr. Olaf stated that a bulk of the lost wage claims in 2009 were related to the MERC contract negotiations. The remaining lost wages were for monthly meetings with the company and for wages when you and Mr. Olaf attended the national convention. Records must be maintained 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 1000 documented the total dollar amount of each lost wage claim on a small sheet of paper, but did not record each date lost wages were incurred, the number of hours lost on each date, the applicable rate of pay or the description of the union business conducted.

During the audit, I provided a sample of an expense voucher Local 1000 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.

Based on your assurance that Local 1000 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 1000 for the fiscal year ended December 31, 2009 was deficient in the following areas:

1. Disbursements to Officers

The amounts reported in Column E (Allowances and Other Disbursements) of Item 24 do not agree with the amounts disbursed to officers for allowances and other expenses that are recorded in the union's ledger. The union's ledger identifies at least \$3,225 in reimbursed expenses paid to officers. However, a total of only \$3,071 was reported in Column E of Item 24. The difference appears to have been included in the amounts reported in Item 48 (Office and Administrative Expense) or Item 54 (Other).

Most direct disbursements to Local 1000 officers and some indirect disbursements made on behalf of its officers must be reported 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. Disbursements to Employees

Local 1000 erroneously reported the names of seven chief stewards and the related payments to them in Item 24 (All Officers and Disbursements to Officers). As noted in the LM-3 instructions for Item 24, the term “officer” is defined in section 3(n) of the LMRDA as “any constitutional officer, any person authorized to perform the functions of president, vice president, secretary, treasurer, or other executive functions of a labor organization, and any member of its executive board or similar governing body.” Since the chief stewards do not hold an “officer” position as defined above, any payments to them are required to be reported in Item 46 (To Employees).

I am not requiring that Local 1000 file an amended LM report for 2009 to correct the deficient items, but Local 1000 has agreed to properly report the deficient items on all future reports it files with OLMS.

Other Issue

Tax Withholdings

The audit revealed that Local 1000 may not be properly following state or federal requirements for withholding of various taxes from payments to officers. While Local 1000 itself may be exempt from income taxes, payments made by Local 1000 to officers and employees are not exempt, except in certain circumstances.

While this office has no authority to interpret the state or federal tax code, it is my understanding that all salary and supplemental payments are subject to the withholding of income, Social Security, and Medicare taxes and that Local 1000 as an “employer” must also pay its share of Social Security and Medicare taxes. Local 1000 may be liable for the Federal Unemployment Tax (FUTA) as well.

OLMS recommends that you contact either your accountant, the Wisconsin Department of Revenue in Madison at (608) 266-2776 (ask for the publication “Wisconsin Employer’s Withholding Tax Guide”), and the Internal Revenue Service (ask for “Circular E, Employer’s Tax Guide,” and Form 990, which Local 1000 may be required to file). OLMS also suggests that you determine Local 1000’s requirements, if any, under the Wisconsin Worker’s Compensation Act by contacting the Wisconsin Dept. of Industry, Labor and Human Relations (DILHR) at its Worker’s Compensation Division in Madison at (608) 266-0416.

I want to extend my personal appreciation to Longshoremen’s Association AFL-CIO Local 1000 for the cooperation and courtesy extended during this compliance audit. I strongly recommend

Mr. Kim Hooey

July 15, 2011

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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,

A large black rectangular redaction box covering the signature area.

Investigator

cc: Mr. Jim Olaf, Financial Secretary