



October 30, 2018

Mr. Jeff Soos, President
Steelworkers, AFL-CIO
Local 04-9436
PO Box 746
North Tonawanda, NY 14120

Case Number: 110-6013078
LM Number: 541557

Dear Mr. Soos:

This office has recently completed an audit of USW Local 04-9436 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 Sue Nezezon and newly elected Treasurer Jason Barlow on October 15, 2018, 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 9436's 2017 records revealed the following recordkeeping violations:

1. General Reimbursed Expenses

Local 9436 did not retain adequate documentation for reimbursed expenses incurred by union officers totaling at least \$1,008. For example expense voucher for Sue Nezezon with Check Number [REDACTED] on August 21, 2017 only included date, hours lost, hourly rate, and reason for lost wages. 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. Additionally there were incomplete or missing receipts for Linda Brown Catering totaling at least \$1,297.

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. Gift Cards (Tops)

Local 9436 did not retain adequate documentation for the purchase and distribution of gift cards during the period. A log or similar record of who received gift cards purchased by the union to give to members should be maintained. The purchase of gift cards with union funds should be documented with a receipt or invoice. An inventory of those cards should also be maintained.

Based on your assurance that Local 9436 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 9436 for the fiscal year ended December 31, 2017, was deficient in the following areas:

1. Disbursements to Officers

Local 9436 did not include some reimbursements to officers totaling at least \$4,069 in the amounts reported 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 9436 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 Report Receipts/Disbursements Accurately

Local 9436 failed to report the gross dues received from the International in Item 38 (Dues). Amounts were deducted from the total gross refunds owed the local union for payments made on the union's behalf to the NYS AFL-CIO for Per Capita Tax as well as any other fees required. These are considered receipts and disbursements of the union and should be reported as such on the form.

The LM-3 instructions state for Item 38, report the full dues received by your organization, including any portion that will later be transmitted to an intermediate or parent body as per capita tax.

3. Chronic Delinquency

Local 9436 has been delinquent in filing their Form LM – 3 reports for fiscal years ending 2014, 2015, 2016, and 2017. Form LM -3 must be filed within 90 days after the end of your organization's fiscal year.

Local 9436 has since filed the December 31, 2017 LM – 3 report.

4. 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. In recent years the union made changes to their constitution and bylaws which were not reported on the LM Report and submitted to OLMS.

Local 9436 has now filed a copy of its constitution and bylaws.

I am not requiring that Local 9436 file an amended LM report for 2017 to correct the deficient items, but Local 9436 has agreed to properly and timely report the deficient items on all future reports it files with OLMS.

I want to extend my personal appreciation to Local 9436 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,



Investigator

cc: Ms. Susan Nezezon, Financial Secretary
Mr. Jason Barlow, Treasurer
Ms. Laurie Jurczak, USW District 4