

U.S. Department of Labor
Employment Standards Administration

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August 15, 2006

Mr. Mark Huneau, Financial Secretary
PACE, Local 390
139 Main Street
Cohoes, New York 12047-2724

Re: Case File [REDACTED]

Dear Mr. Huneau:

This Office has recently completed an audit of PACE/USW, Local 390 under the Compliance Audit Program (CAP) to determine compliance with provisions of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA). As discussed during the exit interview with you on August 11, 2006, 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.

Title II of the LMRDA establishes certain reporting and record keeping requirements. Section 206 requires, among other things, that adequate records be maintained 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, all records used or received in the course of union business must be retained. This includes, in the case of disbursements, not only the retention of original bills, invoices, receipts, and vouchers, but also adequate additional documentation, if necessary, showing the nature of the union business requiring the disbursement, the goods or services received, and the identity of the recipients of the goods or services.

The following record keeping violations were revealed during the audit of Local 390's 2001 records:

- Union officers and employees failed to retain adequate documentation for reimbursed expenses. The date, amount, and business purpose of every expense must be recorded on at least one union record. In addition, the names of individuals present for meal expenses paid for by the union and the locations (names of restaurants) where meal expenses were incurred must also be recorded.
 - With respect to documentation retained in support of specific disbursements (including those in payment of credit card charges), the record retention requirement includes not only the retention of original bills, invoices, receipts, and vouchers, but also additional documentation, if necessary, showing the nature of the union business requiring the disbursement, the goods or services received, and

all the recipients of the goods or services. In most instances, this documentation requirement can be most easily satisfied with a sufficiently descriptive receipt. If a receipt is not sufficiently descriptive, a note can be written on it providing the additional information. An exception may be made only in those cases where 1) other equally descriptive documentation has been maintained, and 2) there is evidence of actual oversight and control over disbursements.

- Some vouchers submitted by union personnel for lost wages do not identify the union business conducted that required lost wages be incurred. The lost wage claims must 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.
 - On at least one occasion officers traveled to the union's convention and were paid lost wages but it was not adequately documented by the union. The membership did approve of this reimbursement as noted in the March 20, 2005 meeting minutes, but there was no supporting voucher. These wages would also need to be reported under Item 24 on the union's annual LM-3 report.

As agreed, provided that Local 390 maintains adequate documentation for its disbursements in the future, no additional enforcement action will be taken regarding this violation.

The CAP disclosed a violation of LMRDA section 201(b), because the Labor Organization Annual Report, Form LM-3 filed by Local 390 for fiscal year ending December 31, 2005 was deficient in the following areas:

- All direct disbursements to your union's officers and some indirect disbursements made by your organization on behalf of its officers must be included in the amounts reported in item 24. A "direct disbursement" to an officer is a payment made by your organization to an officer in the form of cash, property, goods, services, or other things of value. An "indirect disbursement" to an officer is a payment made by your organization to another party (including credit card companies) 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 Expenses).

I am not requiring that Local 390 file an amended LM-3 report for 2005 to correct the deficient items, but as agreed, your union will properly report the deficient items on all future reports filed with this agency.

Furthermore, the CAP disclosed a violation of LMRDA section 201(a) which requires that unions submit a copy of their current constitution and bylaws with its LM report when bylaw changes are made.

- Local 390 amended its constitution and bylaws in 2001, but a copy of the constitution and bylaws was not filed with Local 390's LM-3 report for that year.

A copy of Local 390's constitution and bylaws has now been filed with our office. As agreed, any changes to your constitution and bylaws will be filed with our agency along with your annual LM report.

Finally, Local 390 was late in filing their LM-3 report for the fiscal year ending December 31, 2005. Reports must be filed within 90 days of the end of the union's fiscal year. The union agreed to comply in the timely filing of future reports.

I strongly recommend that you make sure that this letter and the compliance assistance materials that were provided to you are passed on to yours and Mr. Aurelius's successors at whatever time you may leave office.

I want to thank you for your cooperation and courtesy during this compliance audit. If we can be of any assistance in the future, please do not hesitate to contact me or any other representative of our office.

Sincerely,



Investigator