U.S. Department of Labor

Employment Standards Administration
Office of Labor-Management Standards
Los Angeles District Office
915 Wilshire Boulevard
Room 910
Los Angeles, CA 90017
(213)534-6405 Fax: (213)534-6413

May 2, 2007

Mr. Daniel Polanco, President
Bakery, Tobacco & Grain AFL-CIO
Local 37
6801 E. Washington Blvd.
Commerce, CA 90040

Re: Case Number: [redacted]

Dear Mr. Polanco:

This office has recently completed an audit of Bakery, Tobacco & Grain Local 37 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 Felipe Lopez on April 30, 2007, 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.

The CAP disclosed:

Recordkeeping Violations

Title II of the LMRDA establishes certain reporting and recordkeeping requirements. Section 206 requires, among other things, that adequate records be maintained for at least 5 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 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 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.

- Lost time claims, "Statement of Expense/Reimbursement," were not properly authorized for payment because the authorization portion of the claims was not completed by the

union's officers. Some vouchers submitted by union personnel for lost wages do not completely identify the union business conducted that required lost wages to be incurred. For example, when claiming reimbursement for negotiations, the form should state who you were negotiating with. 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, a description of the union business conducted, and receipts for related expenses such as parking, gasoline, etc. Some claims did not clearly state the number of hours claimed. In addition, lost time vouchers should only be used to record payments made to members who lost time from work because of union business, these vouchers should not be used to record payments made to individuals doing work on the union's computers or for payments made to members who did not lose time from their employer because the work they did for the union was outside their contractually obligated working hours, such as painting the union building. Also, the authorization section of the form was not completed on any of the vouchers reviewed. All claims for lost time must be authorized and the authorization on the forms completed by the appropriate officers. The vouchers created by the local to keep track of lost time are adequate for the intended purpose, but need to be completed in their entirety.

- Local 37 failed to maintain an inventory of fixed and other assets as well as hats, shirts, and other property which were purchased and sold or given away. Records must be maintained that account for all union property. In the case of union hats, shirts and other items sold to members, the date and amount received from every sale must be recorded in at least one record. In addition, the union must retain records that adequately account for all property purchased, sold, and given away. The local needs to create and maintain an inventory of all its assets. The record should detail the asset, show when it was acquired, and include the date, time and manner of disposition.

- Local 37 failed to maintain adequate documentation for expenditures related to the installation of the union's computer system and for the painting that was done to the union building.

- Local 37 began using Quick Books in 2005, the audit year, to maintain its records. As this was the transition year, there were recordkeeping errors because entries that should have been made in Quick Books were omitted. A follow up audit of the Quick Books records may be scheduled in the future to verify that the records accurately reflect the local's finances.

As agreed, provided that Local 37 maintains adequate documentation as discussed above in the future, other than stated, no additional enforcement action will be taken regarding these violations.

Other Recommendations

During the audit, I advised you that authorization for the salary amounts paid to union officers and employees could not be found in union records. I recommend that Local 37 document the authorized salary amounts in its bylaws or record them in meeting minutes or some other internal document (following discussion in the appropriate membership and/or executive board meeting).

During the audit, you disclosed that a signature stamp is occasionally used on checks when both signatories are not available but that one original signature was always required on the checks. I recommend that Local 37 review this procedure to make certain that the procedure is not used solely by the same officer.

The McMorgan Fund account was registered with the name of a past officer of the union. The account has been corrected and the names on the account are that of the current local officers. I recommend that you periodically review all of the local's assets to be sure that they are properly recorded in the local's name.

The CAP also disclosed that the local did not keep adequate Executive Board minutes and did conduct the meetings in accordance with the provisions contained in the International Constitution. The local's minutes were found to be lacking in specific authorization for disbursements, including salary authorization for the officers and employees. An examination of the minutes for the audit year (2005) disclosed that business requiring the expenditure of local funds was discussed by the board but there were no entries in the minutes authorizing the expenditure or detailing the nature and amount of the expenditures. All financial matters should be taken before the Executive Board and membership with the subsequent action being recorded in the minutes. This includes salary authorization if it differs from what is provided for in the bylaws. A review of the minutes failed to show authorization for the salary of officers or employees. During the audit, I advised you authorization for the salary amounts paid to union officers could not be found in union records. I recommend that Local 37 document the authorized salary amounts in its bylaws or record them in meeting minutes or some other internal document (following discussion in the appropriate Executive Board and membership meeting) and conduct the Executive Board meetings as provided for in the bylaws.

The CAP disclosed that Local 37 has not updated its bylaws since January 1993. The current provisions of the bylaws addressing the finances of the local are inadequate. The bylaws need to provide detailed procedures the local is to follow in recording income, authorizing expenditures, disbursing union funds, and the compensation that is to be paid to the officers and employees of the local. Compensation should include raises, vacation time, and sick time. The bylaws should reflect the current sate of the local and recommend that the bylaws be updated. I would appreciate it if you would forward a copy of the updated bylaws to this office at the above address and also file a copy of the updated bylaws with your next LM report.

I want to extend my personal appreciation to Bakery, Tobacco & Grain Local 37 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,

[redacted]
Investigator

cc: Secretary Treasurer Felipe Lopez