

U.S. Department of Labor

Employment Standards Administration
Office of Labor-Management Standards
Buffalo District Office
130 South Elmwood Avenue
Room 510
Buffalo, NY 14202-2465
(716)842-2900 Fax: (716)842-2901



November 29, 2007

Mr. James Collins
Business Manager
Electrical Workers, AFL-CIO
IBEW Local Union 325
24 Emma Street
Binghamton, NY 13905

LM File Number: 043-082

Case Number: [REDACTED]

Dear Mr. Collins:

This office has recently completed an audit of Electrical Workers Local Union 325 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 Vice President Donald Husband, Office Manager [REDACTED], and yourself on November 15, 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.

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 Electrical Workers Local 325's records revealed the following recordkeeping violations:

1. Meal Expenses

Local 325 did not require officers and employees to submit itemized receipts for almost all meal expenses charged to the union's credit card totaling at least \$4,800. The union must maintain itemized receipts provided by restaurants to officers and employees for all meals. 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.

Furthermore, some of Local 325's meal expenses were not supported at all with a receipt. In addition, for most meals purchased, the union did not include written explanations of union business conducted or the names and titles of the persons incurring the restaurant charges. Union records of meal expenses must include not only the itemized receipt but also 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.

2. Credit Card Expenses

Local 325 did not retain adequate documentation for credit card expenses incurred by both Business Manager James Collins and Vice President Donald Husband totaling at least \$200. For example, several receipts were missing for purchases made at Lowes, one of which was \$129.58.

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.

3. Clambake Records

Local 325 failed to maintain two invoices for disbursements made for the annual clambake. Supporting documentation was not retained from Mountain Top Grove for holding the clambake totaling \$6,580. In addition, the union failed to retain documentation for the band, [REDACTED] totaling \$1,125.

In addition, the union failed to maintain a record of all door prize winners for the clambake. A check issued to cash for \$1,200 used for \$25 cash door prizes was not sufficiently documented and the names of those individuals who received those prizes were not documented.

4. Officer Expenses

Local 325 did not retain adequate documentation for reimbursed expenses incurred by union officers, specifically you, totaling at least \$220. Although an expense report was prepared for all travel, additional detail and documentation is necessary. For several trips a travel advance was given to the business manager, however the receipts retained to support that amount were not maintained by the union.

In addition, expense reports should include the detail that may be lacking on a receipt or bill. Several entries on your expense reports include an amount with no receipt and a description of "miscellaneous." This explanation for expenses is not sufficient.

As previously noted above, labor organizations must retain original receipts, bills, and vouchers for all disbursements. If an expense receipt is not sufficiently descriptive, a union officer or employee should write a note on it providing the additional information.

Based on your assurance that the union 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-2) filed by Electrical Workers Local 325 for fiscal year ending December 31, 2006 was deficient in the following areas:

1. Disbursements to Officers and Employees

Local 325 incorrectly reported the indirect payments to officers and employees totaling at least \$1,700 in Schedule 11 (All Officers and Disbursements to Officers) and Schedule 12 (Disbursements to Employees). It appears that the Local Union reported more indirect payment to Vice President Donald Husband due to errors in the union's disbursements journal. These payments should have been reported in Schedules 15 through 19.

The union must report in Column F of Schedules 11 and 12 (Disbursements for Official Business) direct disbursements to officers and employees for reimbursement of expenses they incurred while conducting union business. In addition, the union must report in Column F of Schedules 11 and 12 indirect disbursements made to another party (such as a credit card company) for business expenses union personnel incur. However, the union must report in Schedules 15 through 19 indirect disbursements for business expenses union personnel incur for transportation by public carrier (such as an airline) and for temporary lodging expenses while traveling on union business. The union must report in Column G (Other Disbursements) of Schedules 11 and 12 any direct or indirect disbursements to union personnel for expenses not necessary for conducting union business.

2. Wholly Owned Subsidiary

The union failed to report monies received and disbursed from the union's wholly owned subsidiary on the report. Therefore, the cash figures reported in Item 25 are not the cash figures according to the union's books after reconciliation to the bank statements. The instructions for Item 25 state that the union should obtain account balances from its books as reconciled to the balances shown on bank statements for all cash accounts and those of wholly owned subsidiaries. The building corporation's figures need to be included in the report.

3. Netting

The union failed to report all cash receipts received during the period and alternately, all cash disbursements when money was actually paid out, on Statement B of the LM-2 report. Since all cash flowing in and out of the union is reported, "netting" is not permitted. Netting is the offsetting of receipts against disbursements and reporting only the balance (net) as either a receipt or disbursement. Therefore, any monies received or disbursed even on behalf of another entity must be reported as such on the LM-2 report.

I am not requiring that Local 325 file an amended LM-2 report for fiscal year 2006 to correct the deficient items, but as agreed, the union will properly report the deficient items on all future reports it files with OLMS. An explanation should be provided in Item 69 on the next annual report regarding the addition of the building corporation's figures.

Other Issues

1. Inventory of Fixed Assets

As discussed with you during course of the audit and during the exit interview, an inventory list is recommended. Office Manager [REDACTED] agreed to compile a list and provide one to OLMS once completed.

2. Expense Policy

The audit revealed that although Local 325 has a fairly clear policy regarding the types of expenses personnel may claim for reimbursement and the types of expenses that may be charged to union credit cards, there were inconsistencies with documentation and payment of those expenses. OLMS offered you suggestions to manage expenses and travel advances given to officers for travel. OLMS recommends that modifications be made to the union's current policy surrounding travel and expenses.

3. Use of Signature Stamp

During the audit, you and Patty Lynch advised that it is Local 325's practice for [REDACTED] to sign all union checks with the use of one signature stamp of President Charles Joslyn and Treasurer Michael Conners. [REDACTED] indicated that no one but her truly reviews the checks before they are issued. Article XI of Local 325's bylaws outline that disbursements must be made in accordance with the International's Constitution and all disbursements should be supported by receipts, vouchers, and other reasonable proof of claim.

Two signatures required for checks is an effective internal control of union funds. Its purpose is to attest to the authenticity of a completed document already signed. However, the use of a signature stamp for both signatories does not attest to the authenticity of the completed check, and negates the purpose of the two signature requirement. OLMS recommends that Local 325 review these procedures to improve internal control of union funds.

I want to extend my personal appreciation to [REDACTED] Donald Husband, and yourself for the cooperation and courtesy extended during this compliance audit. I strongly recommend that you make sure this letter and any 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: Jules L. Smith
Blitman & King, LLP
The Powers Building, Suite 207
16 West Main Street
Rochester, NY 14614-1601

Melissa Hanba
D'Arcangelo & Co., LLP
200 E. Garden St.
P.O. Box 4300
Rome, NY 13422-4300