U.S. Department of Labor

Office of Labor-Management Standards
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March 22, 2022

Mr. Eddie W. Bentley, Secretary-Treasurer
Scotia Employees Association
P.O. Box 533
Whitesburg, KY 41858

Case Number: 350-6022905([redacted])
LM Number: 540593

Dear Mr. Bentley:

This office has recently completed an audit of Scotia Employees Association (SEA) 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, President Roger Yeary, and Vice President [redacted] on January 28, 2022, 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 SEA's 2021 records revealed the following recordkeeping violations:

Reporting Violations

1. General Reimbursed Expenses and Disbursements

   SEA did not retain adequate documentation for reimbursed expenses and credit card expenses incurred by you and by former Secretary-Treasurer [redacted] totaling at least $120.00. For example, on January 17, 2021, you received a reimbursement for postage of $15.00, but no receipt was located in the records. On July 28, 2020, former Secretary-Treasurer [redacted] received a reimbursement of $105.00 for the purchase of flowers, but no receipt was retained by the local. In total, the audit identified at least $1,657.73 in disbursements without receipts, including disbursements to Cumberland Valley Electric and Walmart totaling $427.14 and $392.60, respectively.

   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. Failure to Record Receipts

   SEA did not record in its receipts records some member dues checks, interest earned on the checking account, and interest from certificates of deposit totaling at least $590.90. For example, the local failed to record interest earned on certificates of deposit totaling $467.45. Union receipts records must include an adequate identification of all money the union receives. The records should show the date and amount received, and the source of the money.

3. Information not Recorded in Meeting Minutes

   During the audit, you advised OLMS that the executive board or membership authorized at the September or October 2020 executive board or membership meeting, the payment of $50.00 to you or Committeeman Eddie Bentley II for each time the grass was cut at the local's property. The audit revealed Bentley II received $100.00 in October 2020, April 2021, May 2021, and June 2021 for cutting the grass twice each month. Article VI of the SEA Constitution and By-Laws requires that disbursements of $100.00 or more be authorized by the executive board. However, the minutes of the meetings do not contain any reference to this issue. Minutes of all membership or executive board meetings must report any disbursement authorizations made at those meetings.

Based on your assurance that SEA 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-4) filed by SEA for the fiscal year ended June 30, 2021, was deficient in the following areas:

1. Disbursements to Officers and Other Reporting Errors

   SEA did not report any payments to officers on Item 18 (Total Payments to Officers and Employees), despite paying officers at least $3,011.70 during the fiscal year. SEA reported no disbursements on Item 17 (Total Disbursements), despite the local making disbursements of at least $7,961.59 during the year. The local reported receipts of $250.00 on Item 16 (Total Receipts), but the local received at least $640.78 in dues and interest during the audit year. On Item 14 (Total Value of Assets), SEA reported the total value of assets at the end of the period was $165,000.00. Although I note SEA was unaware of a Community Trust Bank certificate of deposit with a value of $58,656.40 as of June 30, 2021 which was discovered during the audit, the value of the assets at the end of the period, including the certificate of deposit and assessed value of the local's land and building ($35,000.00), was $219,287.20.

SEA must file an amended Form LM-4 for the fiscal year ended June 30, 2021, to correct the deficient items discussed above. The report must be filed electronically using the Electronic Forms System (EFS) available at the OLMS website at www.olms.dol.gov. The amended Form LM-4 must be filed no later than April 18, 2022. Before filing, review the report thoroughly to be sure it is complete and accurate.

Other Issues

1. Signing Blank Checks

   During the audit, you advised that President Roger Yeary signs blank checks. Your union's bylaws require that all checks be signed by the president and treasurer. The two signature requirement is an effective internal control of union funds. Its purpose is to attest to the authenticity of a completed document already signed. However, signing a blank check in advance does not attest to the authenticity of a completed check, and negates the purpose of the two signature requirement. OLMS recommends that SEA review these procedures to improve internal control of union funds. I noted that during the exit interview, you voided check numbers 1018 and 1019, blank checks signed by Yeary.

2. Segregation of Duties

   Review of SEA's receipts procedures during the audit revealed you are responsible for receiving all receipts, recording the receipts in union records, preparing the deposit, and making the deposit. I discussed with you the safeguards related to the segregation of duties with regard to the receiving, recording, and depositing receipts.

3. Reconciliation of Assets

   Following the passing of former Secretary-Treasurer [redacted] in August 2020, you prepared the Form LM-3 for the year ended June 30, 2020. Because [redacted] kept the local's financial records at her residence and to date, you not been able to obtain all of the records as a result of her death, you prepared the report based on the local's bank statements and known certificates of deposit. As a result, the difference in the ending cash balance reported by your predecessor of $272,585 for fiscal year ended June 30, 2019 differed from the beginning cash balance you reported as $146,740 for fiscal year ended June 30, 2020. The difference of $125,845 was partly reduced with the discovery of a Community Trust Bank certificate of deposit with a value of $58,101.62. However, a difference of in excess of $67,000.00 remains unresolved.

During the exit interview I recommended you contact the Internal Revenue Service (IRS) to request historical Forms 1099-INT or other relevant forms which may have been filed with the IRS by banks, insurance companies or investment brokers to identify other bank accounts, certificates of deposits, or insurance contracts.

4. Fidelity Bond Claim

During the exit interview I discussed with you the propriety of reviewing the disbursements made to former Secretary-Treasurer [redacted]. During the period December 31, 2017 through August 10, 2020, [redacted] received disbursements of salary, hourly, and expenses reimbursements totaling $22,383.90. Although I note [redacted] passed away on August 13, 2020, I recommend you review the disbursements to identify unauthorized disbursements, if any, and consider filing a fidelity bond claim if you identify any unauthorized disbursements.

I want to extend my personal appreciation to Scotia Employees Association 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: Mr. Roger Yeary, President