

U.S. Department of Labor

Employment Standards Administration
Office of Labor-Management Standards
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September 21, 2007

Mr. James Moore Jr. , Treasurer
Laborers AFL-CIO
Local 367
79 Marion Road
Scituate, MA 02066

Re: Case Number: [REDACTED]

Dear Mr. Moore :

This office has recently completed an audit of your union 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 on September 20, 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.

In the case of receipts, the date, amount, purpose, and source of all money received by the union must be recorded in at least one union record. Bank records must also be retained for all accounts.

The audit of Local 367's fiscal year that ended 2006 revealed the following recordkeeping violations:

1) Receipts

Local 367 failed to present any employer reports and remittance slips that may have accompanied the dues deduction checks forwarded to the union. These remittances confirm the amount received and the time period covered by the payment.

2) Bank Statements

The local did not retain its bank statements pertaining to one of its accounts. Even though this account had minimal activity and only one purpose, its statements must be preserved.

3) Credit Card Statements:

The local did not make available the personal credit card statements of the treasurer who used his account to charge union-related expenses. Because the personal credit card is used to enact business-related transactions, the monthly statements become a union record that must be retained. While you are liberty to blacken out transactions that served only personal benefit, the statement itself must be included with the rest of the local's financial records.

As agreed, provided that Local 367 maintains adequate documentation as discussed above in the future, no additional enforcement action will be taken regarding these violations.

Reporting Violations

The CAP 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-3) filed by Local 367 for fiscal year ending December 31, 2006, was deficient in the following areas:

1. LM-3 Item 24 (All Officers and Disbursements to Officers)

The names of some officers and the total amounts of payments to them or on their behalf were not reported in Item 24 (All Officers and Disbursements to Officers). All persons who held office during the year must be reported in Item 24 regardless of whether or not they received any payments from the union.

All direct disbursements to Local 367 officers and some indirect disbursements made on behalf of its officers must be reported 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. An "indirect disbursement" to an officer is a payment 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 Expense. More information can be gotten from the directions accompanying the LM-3.

I am not requiring that Local 367 file an amended LM report for 2006 to correct the deficient items, but as agreed, Local 367 will properly report the deficient items on all future reports filed with this agency.

Other Issues

The audit disclosed the following other issues:

Internal Controls:

We recognize the small size and the limited resources of the local. However, the audit disclosed a complete absence of any internal controls that monitor the union's financial activities. While we encourage the use of dual signatures on all checks, the effectiveness

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of this control was diminished because both signatories were members of the same family. Checks and balances should serve not only to promote an organization's fiscal integrity, it should instill confidence in its members that the money is properly managed. I am sure you will concur that when a function and its oversight are in the hands of a single family, it contributes to the perception of a conflict of interest. Moreover, internal controls were further eroded when it fell to the union's chief financial officer to transcribe the rough notes of the recording secretary. The recording secretary should have completed his responsibilities by transcribing those minutes into the minutes book. And minutes books should reside with the author. Last, but hardly least, the union has no audit committee or any single individual that examines on a periodic basis the union disbursements and receipts for accuracy and completeness. In essence, responsibility for the union's financial affairs fell to one individual who was not subject to regular, internal oversight.

The above observations are not intended as a criticism of any individual. Rather, what we are encouraging is institutional change that will guarantee some regulation of the union's financial affairs, no matter time or place or name of officer.

Check balances:

The local failed to keep a running checking account balance, and it did not perform an end-of-month account reconciliation. By failing to do so, the local always chances the possibility that it will overdraw its account. Also, if errors are made in the union's books, wrong check amount entered, for example, the accountant, at the end of the fiscal year, may well have to review an entire year of entries to find the problem. That represents time and money to the accountant and the union. We encourage you to maintain an accurate checking account balance.

I want to extend my personal appreciation to 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: Robert Burgess, John Finnerty