

U.S. Department of Labor

Employment Standards Administration
Office of Labor-Management Standards
Boston District Office
Room E365
JFK Federal Building
Boston, MA 02203
(617) 624-6690 Fax:(617) 624-6606



October 12, 2007

Mr. Robert Butler, Secretary-Treasurer
Sheet Metal Workers New England District Council
1157 Adams Street
Dorchester, MA 02124

LM File Number: 515-426
Case Number:

Dear Mr. Butler:

This office has recently completed an audit of the Sheet Metal Workers International Association New England District Council 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 October 11, 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 the Sheet Metal Workers New England District Council records for the 2006 fiscal year revealed the following recordkeeping violations:

1. Receipt Dates not Recorded

Entries in the New England District Council's general ledger reflect the date the union deposited money, but not the date money was received. For example, on December 12, 2006, the union deposited an aggregate total of \$2,325.00. Check stubs from payments of the various member locals could account for only \$2,025.00, leaving \$300.00 in question. Union receipts records must show the date of receipt and the source of the money. The date of receipt is required to verify, explain, or clarify amounts required to be reported in Statement B (Receipts and Disbursements) of the LM-3. The LM-3 instructions for Statement B state that the labor organization must record receipts when it actually receives money and disbursements when it actually pays out money. Failure to record the date money was received could result in the union reporting some receipts for a different year than when it actually received them.

2. General Reimbursed Expenses

Sheet Metal Workers New England District Council did not retain adequate documentation for reimbursed expenses incurred by member locals totaling at least \$1,638.17. For example, the union did not maintain documentation for \$1,036.56 in expenses related to quarterly meetings and \$572.00 for flights and other travel expenses.

As previously 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.

3. Meal Expenses

The New England District Council did not require officers and employees to submit itemized receipts for meal expenses totaling at least \$1,036.56. The union must maintain itemized receipts provided by restaurants to officers and employees. 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.

The district council's records of meal expenses did not always include written explanations of union business conducted or the names and titles of the persons incurring the restaurant charges. For example, the receipt for \$2,000.62, dated 11/30/06, from Michael Jordan's Restaurant does not indicate the union purpose of the meal. Union records of meal expenses must include 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.

4. Checks Written to "Cash"

During the audit, you advised that you had written a number of checks to "cash," which were distributed as prizes for an apprenticeship contest. The audit disclosed that three \$100.00 checks were written to "cash" by former Secretary-Treasurer [REDACTED] in 2005 and five \$100.00 checks were written to "cash" in 2007. The union did not retain appropriate documentation to verify the identity of the prize recipients. The union must maintain an accurate record of its disposition of these assets.

Based on your assurance that the Sheet Metal Workers New England District Council 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-3) filed by the Sheet Metal Workers New England District Council for fiscal year ending December 31, 2006, was deficient in the following areas:

1. Failure to Accurately Report Total Membership and Rate of Dues and Fees

The district council did not accurately report the total number of members during the reporting period. The union should not report the number of locals which are members of the council, but rather should report the total number of active members in each local. Similarly, the union did not accurately report the rate of dues paid by each member. You advised that members paid per capita tax at a rate of \$1.15 per year.

2. Failure to Accurately Report Receipts

The union did not correctly categorize its receipts for the audit year. The union received \$864 in per capita tax, which should be reported as such in Item 39. The receipt of per capita tax must be distinguished from other fees, fines, assessments, and work permits, which should be reported in Item 40.

3. Disbursements to Officers

The district council did not include some reimbursements to officers totaling at least \$347.00 in the amounts reported Item 24 (All Officers and Disbursements to Officers). It appears the union erroneously reported these payments in Item 54 (Other Disbursements). The union must report most direct disbursements to district council officers and some indirect disbursements made on behalf of its officers 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. See the instructions for Item 24 for a discussion of certain direct disbursements to officers that do not have to be reported in Item 24. An "indirect disbursement" to an officer is a payment to another party (including a credit card company) 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).

I am not requiring that the Sheet Metal Workers New England District Council file an amended LM report for 2006 to correct the deficient items, but the New England District Council has agreed to properly report the deficient items on all future reports it files with OLMS.

Letter/Mr. Robert Butler
October 12, 2007
Page 5 of 5

I want to extend my personal appreciation to Sheet Metal Workers New England District Council 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,

Mark Letizi
District Director

cc: Mr. Kevin Mulchay, President