

U.S. Department of Labor

Employment Standards Administration
Office of Labor-Management Standards
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September 27, 2007

Mr. Gene Hans Jr., President
United Auto Workers/ Aerospace Workers, AFL-CIO
Local 738
3 Riverton Road
Baltimore, MD 21220

LM File Number 020-602

Case Number [REDACTED]

Dear Mr. Hans Jr.:

This office has recently completed an audit of United Auto Workers/ Aerospace Workers Local 738 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 Patrick Kaisler, Jack McKenzie, and you on September 12, 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 Local 738's 2006 records revealed the following recordkeeping violation:

1. General Reimbursed Expenses

Local 738 did not always retain adequate documentation for reimbursed expenses incurred by union officers. For example, Local 738 did not always retain original itemized receipts for expenses incurred by retirees during the monthly retirees meeting.

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.

Based on your assurance that Local 738 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 Local 738 for fiscal year ending December 31, 2006, was deficient in the following areas:

1. Disbursements to Officers (LM-2)

Local 738 erroneously reported some reimbursements to officers in Schedule 11, Column E (Allowances Disbursed) when these payments should have been reported in Schedule 11, Column F (Disbursements for Official Business) or Schedule 11, Column G (Other Disbursements).

The union must report in Column E of Schedule 11 (Allowances Disbursed) the total allowances made by direct and indirect disbursements to each officer on a daily, weekly, monthly, or other periodic basis. The union must report in Column F of Schedule 11 (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 Schedule 11 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 any direct or indirect disbursements to union personnel for expenses not necessary for conducting union business.

2. Fixed Asset Reconciliation

After comparing the figures reported in Schedule 6 (Fixed Assets), Schedule 3 (Sale of Investments and Fixed Assets), and Schedule 4 (Purchase of Investments and Fixed Assets) for fiscal years 2004, 2005, and 2006, the audit revealed that these figures do not reconcile. It appears that when the local purchased fixed assets, which were recorded in Schedule 4, you did not add the corresponding amount of these purchases to the union's total fixed assets in Schedule 6. All fixed assets must be reported in Schedule 6.

3. Cash Reconciliation

It appears that 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.

I am not requiring that Local 738 file an amended LM report for 2006 to correct the deficient items, but Local 738 has agreed to properly report the deficient items on all future reports it files with OLMS.

Other Issues

The audit disclosed the following other issues:

1. Lost-Time

As discussed during the opening interview, the union's lost-time policy is to reimburse officers for time they miss from their employer to conduct union business. Former Local 738 Vice Chairman Unit 2 Robert Friedel's expense voucher for February 2006 indicated that he missed 8 hours of work on January 24, 2006 to attend a 3rd Step Grievance meeting for the union. Mr. Friedel was paid by the union for this time; however, records from Mr. Friedel's employer indicate that he was paid by the employer for attending this grievance meeting. As Mr. Friedel was paid by the employer, he should not have been paid by the union for this day of work. Mr. Friedel must therefore repay the union the \$145.79 that he was paid for this day. Proof of this repayment should be forwarded to me no later than October 15, 2007. You should be aware that Section 501(c) of the LMRDA provides for a fine of not more than \$10,000 or imprisonment for not more than five years, or both for the willful conversion of union funds to the personal use of a union officer or employee.

2. Authorized Signatories on Local 738 Bank Accounts

While conducting the audit, you advised that former Local 738 President Patrick Feehley's name was still listed as a signatory on all of the local's bank accounts. Local 738 has since corrected this and removed Mr. Feehley's name from the accounts. As an internal control of union funds, I strongly recommend that in the future Local 738 promptly remove the officer's name from the bank account as soon as that individual is no longer a union officer.

3. No Authorization or Approval for Wage Bonus

The audit revealed that the full-time union officers and the local secretary received a 3 percent wage bonus from the local at the end of the fiscal year; however, there is no specific authorization for this bonus in the local's by-laws. As there is nothing specifically contained in the local's by-laws or any other union record addressing this, I strongly recommend that Local 738 document the wage bonus in its bylaws or record them in meeting minutes or some other internal document.

Mr. Gene Hans Jr.
September 27, 2007
Page 5 of 5

I want to extend my personal appreciation to United Auto Workers/ Aerospace Workers Local 738 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: Patrick Kaisler, Financial Secretary