

U.S. Department of Labor

Employment Standards Administration
Office of Labor-Management Standards
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February 26, 2008

Mr. Kevin Bianchi, President
National Air Traffic Controllers Association
Local ZBW
35 Northeastern Blvd.
Nashua, NH 03063

LM File Number 518-087
Case Number: [REDACTED]

Dear Mr. Bianchi:

This office has recently completed an audit of NATCA Local ZBW 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 Treasurer Kristine Mooso, Former Treasurer Ron Geoffroy, Vice President Larry Toth, and Area Representative Michael Dowd on February 21, 2008, 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 of the LMRDA and Title 29 of the Code of Federal Regulations (C.F.R.) Section 403.7 require, among other things, that labor organizations maintain adequate records for at least five years after reports are filed by which the information on the reports can be verified, explained and clarified. Pursuant to 29 C.F.R. Section 458.3, this recordkeeping provision of the LMRDA applies to labor organizations subject to the requirements of the Civil Service Reform Act of 1978 (CSRA) as well. Therefore, as a general rule, labor organization must retain 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 ZBW's 2006 records revealed the following recordkeeping violations:

1. General Expenses

Local ZBW did not retain adequate documentation for expenses totaling at least \$7,198.24. For example, the union did not provide sufficient records to verify check [REDACTED] for \$1,400 to the NATCA local center in Denver, CO, which was described in the union voucher as the balance from the April Center Facility Representative meeting in Boston, MA.

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.

2. Inadequate Record of Receipts

Local ZBW did not maintain sufficient receipts records for transactions totaling at least \$3,258.00. For example, the union received at least \$1,500 from various NATCA locals for hosting the Center Facility Representative meeting in April 2006. 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. Disposition of Property

Local ZBW did not maintain an inventory of hats, jackets, and other property it purchased, sold, or gave away. During the exit interview, union officials indicated that Mr. Geoffroy and Mr. Bianchi are in possession of the surplus shirts and mugs purchased for the convention, which are sometimes given to members. The union must report the value of any union property on hand at the beginning and end of each year in Item 30 (Other Assets) of the LM-3. The union must retain an inventory or similar record of property on hand to verify, clarify, and explain the information that must be reported in Item 30.

The union must record in at least one record the date and amount received from each sale of union hats, jackets and other items.

4. Fixed Asset Inventory

The Local ZBW Asset Inventory as of 2006 is incomplete. The inventory fails to include the purchase of \$309.97 for union office phones and \$641.00 for an Apple computer. The union must maintain records which will provide in sufficient detail the necessary basic information and data from which reports filed with the Secretary of Labor may be verified, explained, clarified, and checked for accuracy and completeness.

Based on your assurance that Local ZBW will retain adequate documentation in the future, OLMS will take no further enforcement action at this time regarding the above violations.

Reporting Violations

Pursuant to 29 C.F.R., Section 458.3, the reporting requirement under 29 C.F.R. Section 403.2 (see Section 201(b) of the Labor-Management Reporting and Disclosure Act (LMRDA)) is made applicable to labor organizations subject to the requirements of the CSRA. This provision requires labor organizations to file annual financial reports that accurately disclose their financial condition and operations. The audit disclosed a violation of this requirement. The Labor Organization Annual Report LM-3 filed by Local ZBW for the fiscal year ending December 31, 2006, was deficient in the following areas:

1. Failure to File Constitution and Bylaws

Pursuant to 29 C.F.R. Section 458.3, the requirement under 29 C.F.R. Section 402.4 implementing LMRDA Section 201(a) is made applicable to labor organizations subject to the requirements of the CSRA. This provision requires labor organizations to file copies of any revised constitution and bylaws when it files its annual financial report. The audit disclosed a violation of this requirement. Local ZBW amended its constitution in 2005, but did not file the required copies with its LM report for that year.

As agreed, Local ZBW will file a copy of its current constitution and bylaws with OLMS when it files Form LM-3 for the fiscal year ending 12/31/07. The most recent constitution and bylaws must be filed no later than March 31, 2008.

2. Acquisition and Disposition of Assets

Item 13 (During the reporting period did your organization acquire or dispose of any assets in any manner other than by purchase or sale?) should have been answered, "Yes," because the union gave away shirts, mugs, and prizes, including a trip to Tahiti, totaling more than \$6,177.00 during the year. The union must identify the type and value of any property received or given away in the additional information section of the LM report along with the identity of the recipient(s) or donor(s) of such property. The union does not have to itemize every recipient of such giveaways by name. The union can describe the recipients by broad categories if appropriate such as "members" or "new retirees." In addition, the union must report the cost, book value, and trade-in allowance for assets that it traded in.

3. Failure to Report Rates of Dues and Fees

Local ZBW failed to report its rate of dues and fees in Item 23 of Form LM-3. During the opening interview, union officers advised that the regular dues rate was 1.5% of a member's base pay and that the initiation fee was one year's dues paid in advance. Instructions for Form LM-3 explain that if more than one rate applies, enter the minimum and maximum rates. Enter "0" where appropriate.

4. Disbursements to Officers

Local ZBW did not include some reimbursements to officers totaling at least \$1,566.12 in the amounts reported Item 24 (All Officers and Disbursements to

Officers). This amount includes at least \$737.64 in direct disbursements to Secretary William McGowan.

The union must report most direct disbursements to Local ZBW 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).

5. Incorrect Reporting of Fixed Assets

Local ZBW failed to report the purchase of at least \$1,585.03 in fixed assets in Item 52 (Purchase of Investments and Fixed Assets). It appears that these items were erroneously reported in Item 48 (Office and Administrative Expense) or Item 54 (Other Disbursements). Instructions for Form LM-3 advise labor organizations to enter the total disbursements for all investments and fixed assets purchased by the organization.

It appears that Local ZBW incorrectly reported the value of fixed assets at the end of the reporting period in Statement A, Item 29 (B). Union officials advised that, near the end of fiscal year 2006, the local ordered and installed a significant amount of office and computer equipment in the union's office. The funds to purchase the equipment were not disbursed until the fiscal year 2007. Treasurer Geoffroy explained that the cost of the equipment was erroneously reported on the LM-3 for 2006.

Instructions for Form LM-3 explain that receipts must be recorded when money is actually received and disbursements must be recorded when money is actually paid out by the labor organization. Therefore, equipment purchased in 2007 should be reported on the LM-3 for the fiscal year ending 12/31/07.

6. Accounts Payable

It appears that the figure reported in Item 32 (D) (Accounts Payable) is not the figure according to union records. Treasurer Geoffroy indicated that the total value of account payable was attributable to the balance due on the union's credit card. The figure reported (\$1,457) is not equal to the balance on the MasterCard statement at the end of the fiscal year.

7. 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.

Local ZBW must file an amended Form LM-3 for fiscal year ending December 31, 2006, to correct the deficient items discussed above. I provided you with a blank form and instructions, and advised you that the reporting forms and instructions are available on the OLMS website (www.olms.dol.gov). The amended Form LM-3 should be submitted to this office at the above address as soon as possible, but not later than March 14, 2008. Before filing, review the report thoroughly to be sure it is complete, accurate, and signed properly with original signatures.

Other Violations

The audit disclosed the following other violation:

Inadequate Bonding

Pursuant to 29 C.F.R. Section 458.35, officers and employees of any labor organization subject to the CSRA are required to be bonded in accordance with Section 502(a) of the LMRDA. This provision requires that union officers and employees be bonded for no less than 10% of the total funds those individuals or their predecessors handled during the preceding fiscal year. Officers and employees of Local ZBW are currently bonded for \$10,000; however, they must be bonded for at least \$10,260.72. Local ZBW should obtain adequate bonding coverage for its officers and employees immediately. Please provide proof of bonding coverage to this office as soon as possible, but not later than March 13, 2008.

Other Issues

Hotel Charges at Sheraton Boston

Local ZBW has paid \$1,113.24 in lodging charges at the Boston Sheraton on behalf of Mr. Layne Efta, a Minneapolis representative at the Boston Center Facility Representative Meeting, for his stay from 04/10/06-04/15/06. Union officials advised OLMS that Local ZBW believed Mr. Efta had reimbursed the union for these charges. Discussion with Sheraton representatives confirmed that Local ZBW did incur the full expense of Mr. Efta's lodging. OLMS recommends pursuing reimbursement from Mr. Layne Efta as soon as possible.

I want to extend my personal appreciation to NATCA Local ZBW 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: Kristine Mooso, Treasurer