

U.S. Department of Labor

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May 22, 2008

Mr. Will Ellsworth, President
Utility Workers AFL-CIO
Michigan State Council
110 W. Lenawee
Lansing, MI 48933

LM File Number: 045-514
Case Number: [REDACTED]

Dear Mr. Ellsworth:

This office has recently completed an audit of the Utility Workers Michigan State 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 and Secretary-Treasurer Pat Dillon on May 8, 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 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 Council's records for fiscal year ending March 31, 2008, revealed the following recordkeeping violations:

1. Lost Wages

The Council did not retain adequate documentation for lost wage reimbursement payments to union officers and employees totaling at least \$4,900.52. The union must maintain records in support of lost wage claims that identify the dates and times (e.g. 8:00 a.m. to 4:00 p.m.) lost wages were incurred, the number of hours lost on each date, the applicable rate of pay, and a description of the union business conducted. The OLMS audit found that the Council did not require claims submitted by officers and employees to list the number of hours lost on each date for which lost hours were claimed.

Enclosed is a sample of an expense voucher the Council may use to satisfy this requirement. The sample identifies the type of information and documentation that the Council must maintain for lost wages and other officer expenses.

2. Reimbursed Auto Expenses

Union officers and employees who received reimbursement for business use of their personal vehicles did not retain adequate documentation to support payments to them totaling at least \$17,428.23 during the audit period. The union must maintain records which identify the dates of travel, locations traveled to and from, and number of miles driven. The record must also show the business purpose of each use of a personal vehicle for business travel by an officer or employee who was reimbursed for mileage expenses.

3. Credit Card Expenses

The Council did not retain adequate documentation for credit card expenses incurred by union officers and employees totaling at least \$249.10. For example, the union incurred monthly credit card charges of \$10.76 to AT&T/Yahoo, but did not maintain any invoices or receipts for the charges, or identify the purpose of the charges in any of its disbursements records.

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.

4. Meal Expenses

The 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, on December 17, 2007, a meal at Clara's Lansing Station was expensed for \$221.05, but neither the names and titles of persons incurring the charges, nor the union business conducted, were noted. 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.

5. Inaccurate Check Dates and Check Numbers

The Council recorded in its ledger inaccurate dates or check numbers for checks totaling \$8,567.04, and failed to record check dates for checks totaling \$2,000. The Council's records must accurately reflect the proper check dates and check numbers. Failure to record the proper dates of checks could result in the union reporting some disbursements for a different year than that in which they were actually made.

6. Canceled Checks

The Council failed to maintain canceled checks for disbursements totaling \$202.19. As noted above, the Council must maintain all bank records used or received in

the course of union business, including voided and canceled checks, and deposit slips.

Based on your assurance that the 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(a), which requires that a union submit a copy of its revised constitution and bylaws with its LM report when it makes changes to its constitution or bylaws. The Council amended its constitution and bylaws in 2005, but did not file a copy with its LM report for that year. The Council has now filed a copy of its constitution and bylaws.

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 the Council for fiscal years ending March 31, 2005-2007 were deficient in that the Council did not report the purchase, sale, or depreciation of fixed assets, yet the total cost basis increased or decreased during the same period of time. Labor organizations must report the details of the sale of fixed assets in Schedule 3 (Sale of Investments and Fixed Assets), the details of the purchase of fixed assets in Schedule 4 (Purchase of Investments and Fixed Assets), and details of all fixed assets in Schedule 6 (Fixed Assets.) In order to verify the accuracy and completeness of the information reported, the Council must maintain records that document the cost basis of its fixed assets (e.g. purchase receipts, bills, invoices, etc.), as well as depreciation schedules or other similar records.

I am not requiring that the Council file amended LM reports for 2005-2007 to correct the deficient items. The Council has agreed to properly report the deficient items on all future reports it files with OLMS.

Other Violation

The audit disclosed the following other violation:

Inadequate Bonding

The audit revealed a violation of LMRDA Section 502 (Bonding), which requires that union officers and employees be bonded for no less than 10 percent of the total funds those individuals or their predecessors handled during the preceding fiscal year. The Council's officers and employees were bonded for \$275,000, but they must be bonded for at least \$287,419.91. The Council has increased its bonding coverage to \$300,000. As a result, OLMS will take no further enforcement action at this time regarding this violation.

Other Issues

The audit disclosed the following other issues:

1. Receipts Journal

The audit disclosed that the Council does not keep a cash receipts journal. I recommend that the Council maintain a cash receipts journal which lists in chronological order all income transactions during each month, including those that are directly deposited to its bank accounts. A twelve-month summary ledger should also be maintained to accumulate the monthly cash receipts totals. This would facilitate the preparation of the union's annual financial report that it is required to file with OLMS.

2. Fund Transfers

The audit disclosed that the union records fund transfers as receipts and deposits to and from each participating account. Transfers between separate bank accounts or between special funds of the labor organization, such as vacation or strike funds, do not represent the flow of cash in and out of the labor organization. Therefore, the Council must ensure that these transfers are not included as receipts and disbursements of the labor organization on the LM report.

3. Per Diem

The audit disclosed that full-time officers generally receive \$35 per work day, in addition to their salaries, to cover the cost of meals. The approval of this per diem was vaguely referenced in meeting minutes from 1994, and more specifically referenced in a similarly-dated Council policy book that did not appear to be approved by the membership or delegates to the Council. The union must keep a record, such as meeting minutes, to show the regular payments to officers

authorized by the entity or individual in the union with the authority to establish such payments. As the Council delegates approve full-time officer salaries on an annual basis, and that approval is recorded in the meeting minutes, I recommend that the per diem for full-time officers also be included in this annual approval process.

I want to extend my personal appreciation to the Utility Workers Michigan State 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,



Investigator

cc: Pat Dillon, Secretary-Treasurer