

U.S. Department of Labor

Employment Standards Administration
Office of Labor-Management Standards
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September 23, 2008

Ms. Bonnie Morr, General Chairperson
Transportation Union Local 23
903 Pacific Avenue, Suite 205
Santa Cruz, CA 95060

LM File Number: 514-418
Case Number: [REDACTED]

Dear Ms. Morr:

This office has recently completed an audit of Transportation Union Local 23 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 [REDACTED] and you on September 4, 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 Local 23's 2006 records revealed the following recordkeeping violations:

1. General Expenses

Local 23 did not retain adequate documentation for expenses incurred by union officers and employees totaling at least \$1,000. For example, you did not retain invoices for services, such as FedEx Kinko's. Though the meeting minutes documented the approval for such expense, the actual invoice should be maintained.

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. Failure to Record Receipts

Local 23 did not record in its receipts records some checks received from individuals for the purpose of the basic business checking account strike fund totaling at least \$10,000. For example, several local businesses and other unions donated money for the purpose of the strike fund, but the dates, amounts, and donors were not documented. Adequate documentation for this account, including bank statements, deposit slips, and other receipt records, must be retained. 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.

Based on your assurance that Local 23 will retain adequate documentation in the future, OLMS will take no further 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 Local 23 for fiscal year ending December 31, 2006, was deficient in that:

1. Disbursements to Officers

Local 23 did not report the names of some officers and the total amounts of payments to them or on their behalf in Item 24 (All Officers and Disbursements to Officers). The union must report in Item 24 all persons who held office during the year, regardless of whether they received any payments from the union.

The union must report most direct disbursements to Local 23 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).

Local 23 has an arrangement with its employers by which it reimburses each employer for lost wages, since the employer pays each member his or her full salary, regardless of lost time. This arrangement is referred to as "bill back" and Local 23 writes monthly checks covering each member's lost time. Any officer who receives lost time pay for which Local 23 reimburses the employer must be reported in Item 24. Any employee who receives lost time pay for which Local 23 reimburses the employer must be reported in Item 46 (To Employees). Local 23 misreported these disbursements under Item 54 (Other Disbursements) in its previous LM-3 reports.

Local 23 must file an amended Form LM-3 for fiscal years ending December 31, 2006, and December 31, 2007, to correct the deficient item 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 no later than September 30, 2008. Before filing, review the report thoroughly to be sure it is complete, accurate, and signed properly with original signatures.

I want to extend my personal appreciation to Transportation Union Local 23 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,

A solid black rectangular box redacting the signature of the investigator.

Investigator

cc: Mr. Daryl Stinchfield, International Auditor