

U.S. Department of Labor

Employment Standards Administration
Office of Labor-Management Standards
Atlanta District Office
61 Forsyth Street, SW
Room 8B85
Atlanta, GA 30303
(404)562-2083 Fax: (404)562-2087



March 18, 2009

Mr. John Gearhard, President
Postal Workers, American, AFL-CIO
Local 7041
P.O. Box 60574
Jacksonville, FL 32236-0574

LM File Number 508-667
Case Number: [REDACTED]

Dear Mr. Gearhard:

This office has recently completed an audit of APWU Local 7041 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 Keith Kirkendall and Michael Finotti on March 12, 2009, 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.

The CAP disclosed the following violations:

Recordkeeping Violations

Title II of the LMRDA establishes certain reporting and recordkeeping requirements. Section 206 requires, among other things, that adequate records be maintained for at least 5 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, all records used or received in the course of union business must be retained. This includes, in the case of disbursements, not only the retention of original bills, invoices, receipts, and vouchers,

but also adequate additional documentation, if necessary, 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 note can be written on it providing the additional information. An exception may be made only in those cases where 1) other equally descriptive documentation has been maintained, and 2) there is evidence of actual oversight and control over disbursements.

The audit of APWU Local 7041's 2007 records revealed the following recordkeeping violation:

Credit Card Expenses

APWU Local 7041 did not retain adequate documentation for credit card expenses incurred by Secretary William Pugh and President John Gearhard totaling at least \$1,290. For example, Secretary Pugh failed to document the business purpose and the names of the individuals who were in attendance for meal purchases. Also, he failed to provide two receipts for credit card purchases in the amount of \$250. President Gearhard failed to obtain a receipt for payment for the union's copier services charged to the union's credit card in the amount of \$495.

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.

Union officers and employees failed to maintain adequate documentation for expenses charged to union credit cards that were directly paid by the union. The date, amount, and business purpose of every expense must be recorded on at least one union record. In addition, the names of individuals present for meal expenses and the locations where meal expenses were incurred must be recorded

Based on your assurance that Local 7041 will retain adequate documentation in the future, OLMS will take no further enforcement action at this time regarding the above violation.

Reporting Violations

The CAP 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 323 for fiscal year ending December 31, 2007, was deficient in the following areas:

1. Lost Wages

APWU Local 7041 failed to include gross payments for lost wages to officers in Item 24 (All Officers and Disbursements to Officers). Such payments were erroneously omitted in the LM-3 report for the fiscal year ending 2007. Union officers failed to report payments for lost wage claims in the amount of \$471.

2. Failure to File Constitution and Bylaws

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. APWU Local 7041 amended its constitution and bylaws in September 2007, but did not file a copy with its LM report for that year.

APWU Local 7041 has now filed its constitution and bylaws.

I am not requiring that APWU Local 7041 file an amended LM report for 2007 to correct the deficient item, but as agreed, APWU Local 7041 will properly report any deficient items on all future reports filed with this agency.

Other Issue

Personal use of Credit Card

The audit revealed that APWU Local 7041 permitted an officer to use the union credit card to pay for personal expenses. Although the officer promptly repaid Local \$332.78 for the personal expenses charged, OLMS does not recommend policies that allow personnel to make personal purchases with union credit cards because this may lead to misuse of union funds.

Mr. John Gearhard
March 18, 2009
Page 4 of 4

I want to extend my personal appreciation to APWU Local 7041 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 used to redact the signature of the investigator.

Investigator

cc: Keith Kirkendall, Treasurer