

U.S. Department of Labor

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April 22, 2009

Mr. Patrick Lavery, President
NAGE Local Union R1-134
PO Box 4404
Middletown, RI 02842

LM File Number: 503-128

Case Number: [REDACTED]

Dear Mr. Lavery:

This office has recently completed an audit of NAGE Local 134 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 with you and Treasurer Deborah Dube on April 3, 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 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 134 records for the fiscal year ending 09/30/07 revealed the following recordkeeping violations:

1. Failure to Record Receipts

Local 134 did not record the sources of some receipts deposited into union accounts totaling at least \$2,682.75. For example, President Lavery indicated that \$1043.00 was collected through donations made by union members at the union's Christmas party and deposited into the union's account. 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.

2. Receipt Dates not Recorded

Entries in Local 134 journal reflect the date the union deposited money, but not the date money was received. For example, \$1,367.75 was deposited into the union's account on 02/27/07 with a notation indicating this receipt came from the Federal Union of Scientists and Engineers (NAGE R1-144) for reimbursement for expenses associated with the two union's shared Christmas party. The date of receipt is required to verify, explain, or clarify amounts required to be reported in Statement B (Receipts and Disbursements) of the LM-3. The LM-3 instructions for Statement B state that the labor organization must record receipts when it actually receives money and disbursements when it actually pays out money. Failure to record the date money was received could result in the union reporting some receipts for a different year than when it actually received them.

3. Information not Recorded in Meeting Minutes

During the audit, Mr. Lavery advised OLMS that the executive board authorized expenses exceeding \$2500.00. However, a disbursement of \$2800.00 was made to the Mainstay Inn on 12/15/06 for the union's Christmas party. Local 134 did not provide OLMS with minutes from any executive board meetings. Minutes of all membership or executive board meetings must report any disbursement authorizations made at those meetings.

Based on your assurance that Local 134 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 134 for fiscal year ending 09/30/07, was deficient in that or deficient in the following areas:

1. Disbursements to Officers (LM-3)

Local 134 did not include some reimbursements to officers totaling at least \$1036.43 paid to President Patrick Lavery in the amounts reported Item 24 (All Officers and Disbursements to Officers). An example of a reimbursement payment made to President Lavery is found in check [REDACTED] for \$619.13 dated 11/01/06. It appears the union erroneously reported these payments in Item 48 (Office and Administrative Expense).

The union must report most direct disbursements to Local 134 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).

2. 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 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 134 under-reported cash figures for the end of the reporting period (Item 25B) by at least \$22,938.00. This error may have caused Local 134 to under-report cash at the start of the reporting period for fiscal year ending 09/30/2008 (Item 25A).

3. Reporting of Cash Receipts

It appears that the cash figures reported in Items 38 (Dues), 41 (Interest & Dividends), 43 (Other Receipts), and 44 (Total Receipts), are not the receipt figures according to the union's books. Local 134 under-reported dues received by at least \$73,595.00, interest received by at least \$2,658.00, and other receipts by at least \$3,157.00. Total receipts reported in Item 44 were under-reported by at least \$79,411.00.

4. Reporting of Cash Disbursements

It appears that the union under-reported cash figures in total disbursements (Item 55), by \$77,185. The union did not include payments made to officers (Item 45), payments made for per capita tax (Item 47), or other disbursements that were made (Item 54).

Local 134 must file an amended Form LM-3 for fiscal year ending 09/30/07, to correct the deficient items discussed above. If Local 134 under-reported cash at the start of reporting period for fiscal year ending 09/30/08, then Local 134 must also file an amended LM-3 report for the year 2008. 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 05/15/09. Before filing, review the report thoroughly to be sure it is complete, accurate, and signed properly with original signatures and that the box marked amended (Item 3) is checked.

Other Violations

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. Local 134 provided proof of a bond from a certified surety company, but the bond included a deductible which is a form of self-insurance and does not satisfy the requirements of the LMRDA.

Local 134 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 05/15/09.

I want to extend my personal appreciation to 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: Deborah Dube, Treasurer