

U.S. Department of Labor

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February 23, 2009

Mr. Michael Terry, Secretary-Treasurer
Longshore and Warehouse Local 75
4 Berry St.
San Francisco, CA 94107

LM File Number: 013-583
Case Number: [REDACTED]

Dear Mr. Terry:

This office has recently completed an audit of Longshore and Warehouse Local 75 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 on February 6, 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.

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 75's 2007 records revealed the following recordkeeping violations:

1. Failure to Record Receipts

Local 75 did not record in its receipts records any employer remittances received on behalf of casual workers totaling over \$3000. Local 75 incorrectly "netted" the income against costs contained in the joint-dispatch bills. 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. Failure to Retain Records

Local 75 did not retain several records, including, but not limited to, bank statements, deposit slips, and invoices. Officers are required to maintain records which will provide in sufficient detail the information and data necessary to verify the accuracy and completeness of the LM report for at least five years after the date the report is filed.

Based on your assurance that Local 75 will record all receipts and 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(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 75 for fiscal year ending December 31, 2007, was deficient in the following areas:

1. Disbursements to Officers

Local 75 did not include some indirect salary payments to officers totaling over \$45,000 in the amounts reported Item 24 (All Officers and Disbursements to Officers). It appears the union erroneously reported these payments in Item 54. Officer auto allowances and direct disbursements were underreported in Item 24 by over \$1000.

The union must report most direct disbursements to Local 75 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 the bank statements, in that the union's certificate of deposit was not included in Item 25. 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. For LM reporting purposes, OLMS considers a certificate of deposit to be cash.

I am not requiring that Local 75 file an amended LM report for 2007 to correct the deficient items, but Local 75 has agreed to properly report the deficient items on all future reports it files with OLMS.

3. Failure to File 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. Local 75 amended its constitution and bylaws in 1999 and 2000, but did not file a copy with its LM report for those years nor file an amended LM-1 to update the information on file with OLMS.

Local 75 will either file a copy of its revised constitution and bylaws or file an amended LM-1 to report changes in practices and procedures listed in Item 18 Column (2), with OLMS as soon as possible but not later than March 20, 2009.

Other Violations

The audit disclosed the following other violation:

1. 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 75's officers and employees are not currently bonded, but they must be bonded for at least \$20,000. Local 75 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 20, 2009.

I want to extend my personal appreciation to Longshore and Warehouse Local 75 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: Mr. Thomas Koon, President