

U.S. Department of Labor

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February 23, 2009

Mr. Mark Landau, President/Business Agent
Sheet Metal Workers AFL-CIO
Local 83
718 Third Street
Albany, New York, 12206-2007

LM File Number 029-167
Case Number: [REDACTED]

Dear Mr. Landau:

This office has recently completed an audit of Sheet Metal Workers Local 83 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, Business Representative Larry Hebbard, Treasurer David Mellon, Vice President Mike Sullivan, Secretary and Organizer Frank McGuire, Trustees Steve Shelby and Ed Neiman, accountant James Sheppard, and office staff Susan Hall and Sarah Nelson on February 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 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 83's 2007 records revealed the following recordkeeping violations:

1. Credit Card and Meal Expenses

Local 83 did not retain adequate documentation for credit card expenses or require officers and employees to submit itemized receipts for meal expenses totaling at least \$200. In addition to labor organizations retaining original receipts, bills, and vouchers for all disbursements, the union must also maintain itemized receipts provided by restaurants to officers and employees. These itemized receipts are necessary to determine if such disbursements are for union business purposes and to sufficiently fulfill the recordkeeping requirement of LMRDA Section 206.

Local 83 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 several occasions refreshments were purchased for union meetings that did not include sufficient details. 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.

The president and treasurer of your union, who are required to sign your union's LM report, are responsible for properly maintaining union records.

2. Disposition of Property

Local 83 did not maintain an inventory of hats, jackets, and other property it purchased, sold, or gave away. The union must report the value of any union property on hand at the beginning and end of each year in Item 28 of the LM-2. The union must retain an inventory or similar record of property on hand to verify, clarify, and explain the information that must be reported in Item 28 (Other Assets).

The union must record in at least one record the date and amount received from each sale of union hats, jackets and other items.

3. Itemization of Deposit Slips

Local 83's did retain every deposit slip; however, many of the slips included multiple sources of income that were not reflected on the slips. 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. The itemized deposit slip is used to verify, explain, or clarify amounts required to be reported in Statement B (Receipts and Disbursements) of the LM-2.

Based on your assurance that Local 83 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(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 Local 83 for fiscal year ending December 31, 2007, was deficient in the following areas:

1. Disposition of Property Other Than Sale

Item 15 (During the reporting period did your organization acquire or dispose of any assets in any manner other than by purchase or sale?) should have been answered, "Yes," because the union gave away 13 T-shirts totaling more than \$195 during the year. The union must identify the type and value of any property received or given away in the additional information section of the LM report along with the identity of the recipient(s) or donor(s) of such property. The union does not have to itemize every recipient of such giveaways by name. The union can describe the recipients by broad categories if appropriate such as "members" or "new retirees." In addition, the union must report the cost, book value, and trade-in allowance for assets that it traded in.

2. Automobile Payments

Local 83 incorrectly reported payments for one vehicle owned by the union and used by one of the officers. Local 83 obtained a loan to pay for the vehicle. These payments should be reported in Schedule 9 (Loans Payable). Payments towards the principal of the automobile would also be reflected in this schedule.

3. Failure to Report All Accounts

During the course of the audit, three additional accounts Local 83 maintains were not reported on the LM-2 report: holding account, entertainment account, and hardship account. The union is required to report all receipts and disbursements that are held in the union's name regardless of the source of income or the purpose of the account.

4. Disbursements to Officers and Employees

Local 83 failed to report all the officers that are elected to Local 83. The union must report in Schedule 11 (All Officers and Disbursements to Officers) all persons who held office during the year, regardless of whether they received any payments from the union. Additionally, Local 83 reported Secretary and Organizer Frank McGuire's payments in both the officer and employee section. Since McGuire is an officer, the union must list all payment to him in Schedule 11.

5. Reporting of Supplies for Resale

Local 83 did correctly report the receipts from sales and the disbursement for the purchase of supplies for resale, however, the union did not report their inventory on hand at the end of the reporting year. The union must report the value of any supplies for resale on hand at the beginning and end of the year in Item 28 (Other Assets) and Schedule 7 (Other Assets).

I am not requiring that Local 83 file an amended LM report for 2007 to correct the deficient items, but Local 83 has agreed to properly report the deficient items on all future reports it files with OLMS.

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 83's officers and employees are currently bonded for \$100,000, but they must be bonded for at least \$142,100. Local 83 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 12, 2009.

Other Issue

Use of Signature Stamp by a Union Employee/Single Signature

During the audit, President Mark Landau advised that it is Local 83's practice for Susan Hall and/or Sarah Nelson to sign all union checks and to stamp the signature of President Landau and Treasurer David Mellon on union checks. President Landau and Susan Hall indicated that none of the officers reviews the checks before they are issued. Article 13, Section 4(A)(c) of the Sheetmetal Workers' Constitution and Ritual requires that checks be signed by the president and treasurer.

Also, Local 83 only has one officer sign the checks on the Hardship account. The two signature requirement is an effective internal control of union funds. Its purpose is to attest to the authenticity of a completed document already signed. However, the use of the signature stamp and lack of review of the disbursements in advance does not attest to the authenticity of a completed check, and negates the purpose of the two signature

requirement. OLMS recommends that Local 83 review these procedures to improve internal control of union funds.

I want to extend my personal appreciation to Sheet Metal Workers Local 83 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: James Sheppard, CPA
Treasurer David Mellon