

U.S. Department of Labor

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January 16, 2009

Mr. Jeffrey M. Bernard, Secretary-Treasurer
Utility Workers AFL-CIO
Local Union 522 (Local 522)
P.O. Box 881749
Los Angeles, CA 90009-9998

LM File Number: 508-768
Case Number: [REDACTED]

Dear Mr. Bernard:

This office has recently completed an audit of Utility Workers Local Union 522 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 December 30, 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 522's 2007 records revealed the following recordkeeping violations:

1. General Reimbursed and Credit Card Expenses

Local 522 did not retain adequate documentation for reimbursed expenses and credit card expenses incurred by union officers totaling at least \$787.09. For example, on March 11, 2007, the union purchased office supplies, but the receipt for the amount purchased was not preserved in the union record.

As previously noted above, labor organizations must retain original receipts, bills, and vouchers for all disbursements. 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. Meal Expenses

Local 522 did not preserve itemized receipts for meal expenses totaling at least \$181.91. The union must maintain itemized receipts provided by restaurants to officers. 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 522 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 May 17, 2007, the union made a disbursement of \$181.91 for a meeting held at La Casa Garcia restaurant, but an explanation of the union business conducted and the full names of the individuals who incurred the restaurant charges were not preserved.

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.

3. Lost Wages

Local 522 did not retain adequate documentation for lost wage reimbursement payments to union officers in four instances, where the Southern California Gas Company billed the union for lost wages. The union must maintain records in support of lost wage claims that identify each date lost wages were incurred, the number of hours lost on each date, the applicable rate of pay, and a description of the union business conducted. The OLMS audit found that Local 522 was billed for lost time paid by the employer, Southern California Gas, but the invoices provided by the employer did not identify the union business conducted, nor did the expense voucher used to issue the reimbursement check.

During the exit interview, I explained the type of information and documentation that the local must maintain for lost wages and other officer expenses. The expense voucher used by Local 522 should be modified to include the identity of the union business conducted.

4. Information not Recorded in Meeting Minutes

During the audit, Mr. Bernard advised OLMS that in the past, the membership had authorized a standing policy where the executive board can make disbursements for retirement gifts and bereavement gifts. The meeting minutes which reflect the approval of this standing policy were not available. Article VI, section B of the Local 522 Constitution states that any action of the Executive Board shall be subject to the approval of the membership. Minutes of all membership or executive board meetings must report any disbursement authorizations made at those meetings.

Based on your assurance that Local 522 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-3 filed by Local 522 for fiscal year ending December 31, 2007, was deficient in the following areas:

1. Disbursements to Officers

Local 522 did not include some reimbursements to officers totaling at least \$43,265.96 in the amounts reported Item 24 (All Officers and Disbursements to Officers). It appears the union erroneously reported these payments in Item 48.

The union must report most direct disbursements to Local 522 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. Certificates of Deposit Reported As Investments

Local 522 improperly included the value of certificates of deposit and money market accounts as investments in Statement A (Assets and Liabilities). For LM reporting purposes, OLMS considers a certificate of deposit or a money market account to be cash. The purchase or redemption of a certificate of deposit is a transfer of cash from one account to another and, therefore, the local should not report these transactions as receipts or disbursements.

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 522 amended its constitution and bylaws in 1998, but did not file a copy with its LM report for that year.

Local 522 has now filed a copy of its constitution and bylaws.

Other Issues

1. Expense Policy

As I discussed during the exit interview with Local 522, the audit revealed that Local 522 does not have a clear policy regarding the types of expenses personnel may claim for reimbursement and the types of expenses that may be charged to union credit cards. OLMS recommends that unions adopt written guidelines concerning such matters.

2. Officer Allowances

The audit revealed that Local 522 made two overpayments for officer allowances in November 2007 and December 2007. Each payment was made for \$150, instead of the \$100 authorized by the Constitution and Bylaws of Local 522. The union official who was overpaid agreed to reimburse Local 522 for the excess allowance payment.

I want to extend my personal appreciation to Utility Workers AFL-CIO 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,

Alan D. Weiss
District Director

cc: Mr. Joe Smith, President