

U.S. Department of Labor

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March 10, 2009

Mr. Mike Biel, President
Plumbers Local 183
W175 N5700 Technology Drive
Menomonee Falls, WI 53051-5673

LM File Number: 017-792
Case Number: [REDACTED]

Dear Mr. Biel:

This office has recently completed an audit of Local 183 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 Business Manager Chris Schoenbeck, Business Agent Corey Gall, Attorney John Brennan, and CPA Jim Weber, and you on March 4, 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 183's 2007 records revealed the following recordkeeping violations:

1. Bank Records

Local 183's accountant, Jim Weber, stated that he disposes of bank statements for the escrow account at [REDACTED] after receiving them. In addition, Local 183 did not retain at least seven bank debit memos documenting withdrawals from the escrow account. As stated above, bank records for all accounts must be kept.

2. Union Purpose for Disbursements

Local 183's disbursements records did not always include explanations of the specific union business requiring the disbursement. For example, regular purchases of refreshments were made from Otto's Beverage, including a total of \$432 for the months of January, March, and May 2007, but the vendor receipts do not identify the event or event date for which the purchase was made. Another example is the disbursement of \$1,297 to Pennsylvania State University in December 2007. Records included a photocopy of the check and invoice, but the invoice was not imprinted with the name of the item(s) purchased. QuickBooks records show the check was booked to an account for training/school supplies, but there was no specific identification of what types of supplies were purchased, how many, or the name or date of any training.

Records must identify the business purpose for all disbursements. As stated above, if vendor documents are not sufficiently descriptive, they may be annotated with the additional information.

3. Written Inventory

Local 183 did not maintain a written inventory of items purchased, sold, or given away. For example, Mr. Schoenbeck stated that there was a large quantity of items purchased in 2006 for the 100th anniversary and that some were on hand at the start and end of the audit period of 2007. On March 10, Mr. Schoenbeck showed me the remaining items, which currently consist of about 100 caps valued at \$15 each, about two dozen t-shirts valued at \$10 each, a dozen wallets valued at \$15 each, and numerous shot glasses and regular glasses valued at about \$3 each. However, there was no written inventory which identified the quantity on hand at the start or end of 2007.

The value of any union property on hand at the start and end of each year must be reported in Item 28 (Other Assets) of the LM-2. Therefore, an inventory or similar record of the property on hand must be maintained to verify, clarify, and explain the information to be reported in Item 28. (Since no records were maintained, it would be sufficient to provide an estimate in Item 28 when completing the amended 2007 LM-2. The amended report is discussed further below.)

Based on your assurance that Local 183 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 LM-2 Labor Organization Annual Report filed by Local 183 for fiscal year ending December 31, 2007, was deficient in the following areas:

1. Acquire/Dispose of Property

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 Local 183 gave away 50 Brewer's game tickets, \$100 worth of Starbucks gift cards, kitchen magnets, \$1,700 in Home Depot and Best Buy gift cards to apprentices, and \$1,000 in other gift cards to retirees during the year. The type and value of any property received or given away must be identified in the additional information section of the LM report along with the identity of the recipient(s) or donor(s) of such property. For reporting purposes, each recipient need not be itemized. Recipients can be described by broad categories, if appropriate, such as "members" or "retirees."

2. Cash

Local 183 reported in Item 22, Cash, that it had \$104,733 and \$113,859 at the start and end of the audit year, respectively. These figures correspond to the total of the various fund entries shown on the Balance Sheets in the Checking/Savings category in QuickBooks. However, the Balance Sheets also list, in the category of Other Assets, certificates of deposit at [REDACTED] totaling \$77,328 and \$106,309 at the start and end of the period which were not included in the amounts reported in Item 22. The LM-2

instructions for Item 22 state to include all the labor organization's cash on hand and on deposit, including checking accounts, savings accounts, and certificates of deposit.

3. U.S. Treasury Securities

The American Funds statements show that at the end of the audit year Local 183 had \$406,599 invested in a U.S. Government Securities Fund. The balance in that fund appears to have been erroneously reported in Item 26, Investments, but it is required to be reported in Item 25, U.S. Treasury Securities. However, Local 183 reported zero in Item 25.

4. Sale of Supplies

Receipts records show Local 183 took in approximately \$1,700 in cash from the sale of t-shirts and sweatshirts during 2007. These receipts should have been reported in Item 39, Sale of Supplies, but zero was reported there.

5. Vacation Fund Receipts and Disbursements

During the interview at the beginning of the audit, Mr. Schoenbeck stated that Local 183 manages the vacation fund contributions of members. The union receives this money along with the employer dues checkoff, it is deposited into the escrow account, and at the end of each month it is disbursed to the members by transfer to the personal savings accounts or by cashier's checks. These receipts and disbursements, which average close to \$50,000 per month, were not reported as receipts and disbursements on the LM-2.

Page 4 of the LM-2 instructions states that labor organizations must report the financial information for all funds, including any special purpose funds or accounts such as vacations funds. Local 183 may report its vacation funds using either Item 47 (From Members for Disbursement on Their Behalf) and Item 64 (On Behalf of Individual Members), or the information may be reported in Item 48 (Other Receipts) and Item 55 (Benefits).

6. Purchase of Investments

In Item 60/Schedule 4 (Purchase of Investments and Fixed Assets), Local 183 erroneously reported a disbursement from its general checking account of \$25,000 to purchase a certificate of deposit. The LM-2 instructions state on page 37 that the purpose of Statement B is to report the flow of cash in and out of the labor

organization during the reporting period. Transfers between separate bank accounts or between special funds do not represent the flow of cash in and out of the labor organization. Therefore, such transfers should not be reported as receipts and disbursements.

7. Direct Taxes

Local 183 pays regular wages to two full-time employees and several part-time employees, withholds taxes from those wages, and remits its share of FICA taxes to various tax authorities. However, the response to Item 65, Direct Taxes, is zero. Page 40 of the LM-2 instructions state to enter in Item 65 all taxes assessed against and paid by your organization, including your organization's FICA taxes as an employer.

8. Officer and Employee Expenses

The audit revealed that officers both charged to union credit cards and were reimbursed for expenses totaling at least \$59,000, which included meals, auto expenses, and out-of-town expenses that should have been reported in Schedule 11 (All Officers and Disbursements to Officers). However, Local 183 reported no amounts in Columns F (Disbursements for Official Business) or G (Other Disbursements) of Schedules 11 (All Officers and Disbursements to Officers) and 12 (Disbursements to Employees).

Direct disbursements to officers and employees for reimbursement of expenses they incurred while conducting union business must be reported in Column F of Schedules 11 and 12. In addition, indirect disbursements made to another party (such as a credit card company) for business expenses union personnel incur must be reported in Column F of Schedules 11 and 12. However, indirect disbursements for business expenses union personnel incur for transportation by public carrier (such as an airline) and for temporary lodging expenses while traveling on union business must be reported in Schedules 15 through 19. Any direct or indirect disbursements to union personnel for expenses not necessary for conducting union business must be reported in Column G of Schedules 11 and 12.

In addition, the LM-2 instructions require the identification of all officers in Schedule 11, yet the president, vice president, sergeant at arms, and general executive board members are not listed. The instructions also require the reporting on Line 8 of taxes withheld, payroll deductions, and all other deductions taken from the disbursements to officers, yet none were reported.

9. Allocation/Itemization of Receipts and Disbursements in Schedules 14 through 19

Local 183 did not properly report numerous transactions, including “major” transactions, in Schedules 14 through 19. A “major” transaction includes any individual transaction of \$5,000 or more or total transactions to or from a single entity or individual that aggregate to \$5,000 or more during the reporting period and which the local cannot properly report elsewhere in Statement B. The audit found that on Local 183’s LM-2, there are instances where transactions were not allocated to the proper schedules, itemization pages were not properly completed, and individual transactions were not correctly itemized.

Refer to pages 23-34 of the LM-2 instructions for information on completing Schedules 14 through 19. The Detailed Summary Page summarizes transactions regardless of dollar amount for the category of Other Receipts (Schedule 14) and six disbursements categories (Schedules 15-19). For transactions from/to a single individual or entity that aggregate to \$5,000 or more, an itemization page for the proper schedule must be used. In addition, each individual transaction of \$5,000 or more must be listed individually on the itemization page. When an itemization page is required, the full name and business address is required to be reported in Column (A) and the type of business or job classification is required to be reported in Column (B). Any individual transactions of \$5,000 or more are required to be itemized, with the union purpose, date, and amount required to be reported in Columns (C), (D), and (E). Disbursements must be allocated to Schedules 15-19 based on the union purpose (rather than by individual check amount).

10. Failure to File Bylaws

The audit disclosed a violation of LMRDA Section 201(a), which requires that a union submit a copy of its constitution and bylaws with its LM report when it makes changes to its constitution or bylaws. During the audit Mr. Schoenbeck provided a copy of undated bylaws that he said were quite old. OLMS records show that this document has never before been filed. I have kept the copy provided by Mr. Schoenbeck, and Local 183 can now consider that its bylaws have been filed with OLMS.

Local 183 must file an amended Form LM-2 for fiscal year ending December 31, 2007, to correct the deficient items discussed above. As you know, the filing procedures, the filing software, and the LM-2 instructions are available on the OLMS website (www.olms.dol.gov). The amended Form LM-2 must be electronically filed as soon as

possible, but not later than March 31, 2009. Before filing, review the report thoroughly to be sure it is complete and accurate, and properly signed with electronic signatures.

Other Issues

Mr. Schoenbeck stated that the salaries for the business agent, recording secretary, and clerical employee are paid based on authorizations that are recorded in older meeting minutes, and these were not reviewed during the audit. Local 183 must keep a record, such as meeting minutes or bylaws, which identifies the current salary that is authorized by the entity or individual with the authority to establish salaries. I also note that Local 183 bylaws provided during the audit are undated. Mr. Schoenbeck advised that they are quite old and the union has intended to update them for quite some time. I highly recommend that copies of the salary authorizations and other pertinent authorizations from the older meeting minutes be identified and kept at hand along with the bylaws. In addition, I also recommend that any updated bylaws be dated and include provisions for all forms of compensation paid to the officers and employees of Local 182.

I want to extend my personal appreciation to Local 183 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: Chris Schoenbeck, Business Manager
John Brennan, Attorney
Jim Weber, CPA