

U.S. Department of Labor

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Office of Labor-Management Standards
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March 11, 2009

Ms. Nancy Duchenski, President
USW Local 366
419 Foster Road
Red Granite, WI 54970

LM File Number: 056-872
Case Number: [REDACTED]

Dear Ms. Duchenski:

This office has recently completed an audit of USW Local 366 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, Financial Secretary Anna Dimas, Treasurer Ricki Schubert, and Vice President Harold Koeppel on February 17, 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 366's 2007 records revealed the following recordkeeping violations:

1. Receipt Sources not Recorded

The source of over \$1,500 in income was not identified in Local 366 records. For example, in December of 2007, Local 366 recorded a receipt of \$1,220 and identified the source as an "IRS refund." The audit revealed that particular receipt was actually three individual receipts from three different sources, none of which was the IRS.

Receipt records, such as the receipt ledger, must include an adequate identification of all the money the union receives. The records must identify each receipt of income, including the date and amount received, and the source of the money.

2. Receipt Dates not Recorded

Entries in Local 366's receipt ledger reflect the date the union deposited money, but not the date the money was received. The audit revealed that although dues money is directly deposited into the union's checking account, Local 366 collected over \$1,500 in additional income that was paid directly to the local. During the opening interview, you stated that Local 366 does not have a standard procedure in place for the collection and deposit of non-dues receipts and those receipts are deposited in the bank when someone has the time to do it. You also stated that the receipt is entered in the receipt ledger after the deposit has been made.

Receipts records must show the date of receipt. 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. Failure to Maintain Supporting Documentation for Receipts

During the opening interview, you stated that each month Local 366 receives a check off report from Citation as well as a dues income statement from the International

Union. Local 366 provided less than half of these original documents for the audit period and were unable to locate the remaining documents among its records. Local 366 also received several refund checks from the IRS during the audit year; however the supporting documentation that accompanied those refunds was not retained.

Adequate records must be maintained so that each receipt of income can be verified, explained and clarified.

4. Failure to Maintain Supporting Documentation for Disbursements

Adequate documentation was not retained for \$4,000 of disbursements during the audit year, including payments to JT Foods, Piccadilly Pizza, Donald Passarelli, Edgewater, Kodiak Jacks, Red Granite Lions Club, and Wal-Mart, as well as several others.

During the audit, Ms. Dimas stated that Local 366 occasionally purchases pizza and refreshments for membership meetings. The audit revealed that receipts for these purchases failed to identify a union purpose.

Ms. Dimas also stated that Local 366 hosted a Christmas party in December of 2007 and many purchases made during November and December of 2007 included purchases for decorations, door prizes, entertainment, and food for the party. The audit found that although receipts for these types of purchases were among the union's records, the receipts maintained by Local 366 were not sufficiently descriptive and lacked additional information identifying the business purpose of the expenses.

As previously noted above, labor organizations must retain original receipts, bills, and vouchers for all disbursements. The documentation must show the nature of the union business requiring the disbursement. The president and treasurer (or corresponding principal officers) of your union, who are required to sign your union's LM report, are responsible for properly maintaining union records.

5. Lack of Salary Authorization

Local 366 did not maintain records to verify that the officers' salaries totaling over \$10,000 reported in Item 24 (All Officer and Disbursements to Officers) of the LM-3 was the authorized amount and therefore was correctly reported. Local 366 must keep a record, such as meeting minutes, to show the current salary authorized by the entity or individual with the authority to establish salaries.

6. Reimbursed Auto Expenses

Officers who received reimbursement for business use of their personal vehicles did not retain adequate documentation to support payments to them totaling at least \$500 during 2007. Local 366 requires mileage claims to be documented on a lost time and expense voucher that is completed by the officer. The mileage claims documented on these vouchers failed to identify the dates of travel, the starting and ending destinations, as well as the business purpose of the travel. Additionally, several mileage claims appear to have been miscalculated, resulting in the overpayment of over \$200 to several officers. You agreed to review the mileage records and take measures to remedy any overpayments that may have been made.

The union must maintain records which identify the dates of travel, locations traveled to and from, and number of miles driven. The record must also show the business purpose of each use of a personal vehicle for business travel by an officer or employee who was reimbursed for mileage expenses.

7. Per Diem Payments

During the opening interview, you stated that per diem is paid at the IRS daily allowable rate for the city or area of travel. During the audit year, Local 366 paid over \$450 in per diem payments to several officers. Per diem, like mileage, is required by Local 366 to be documented and submitted for payment on a lost time and expense voucher. However, the vouchers maintained by the union failed to identify the specific dates that per diem was claimed and the rate at which per diem was paid for each day of travel. For example, check # [REDACTED] to you included a \$96.75 payment for per diem; however, there is no additional information on the voucher or other union document that identifies the dates for which per diem is being claimed, nor is it evident how much per diem was paid on each day. Additional records must be maintained that identify the per diem rate received on each date of travel to ensure that the payment is in an amount that is authorized and does not include additional payment for other expenses.

8. Lost Wages

Local 366 did not retain adequate documentation for lost wage reimbursement payments to several officers totaling at least \$1,300. 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.

Local 366 requires officers and members to document lost wage claims on lost wage and expense vouchers. Most of the claims that were reviewed for the audit year identified the date of lost wages, the number of hours lost, and the applicable rate of pay, but failed to identify a description of the union business that was conducted. Additionally, in some instances the applicable rate of pay and number of hours identified on the voucher are not consistent with the total amount paid. For example, check # [REDACTED] to Scott Dutcher included a gross payment of \$25.07 for one hour of lost wages; however, his rate of pay was identified as \$16.05. As previously noted, the rate of pay used to calculate the gross lost wages must be identified on the voucher. If additional information is necessary to identify the applicable rate of pay, such as an overtime rate or an incentive pay rate, that information should also be noted on the voucher.

Based on your assurance that Local 366 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 366 for fiscal year ending December 31, 2007, was deficient in the following areas:

1. Acquire/Dispose of Property

Item 13 (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 366 gave away more than \$250 in door prizes and \$400 in gift cards at the Christmas party in December of 2007. Local 366 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."

2. Reimbursed Expense Payment

Local 366 did not include a reimbursement to you of \$150.10 in the amounts reported in Item 24 (All Officers and Disbursements to Officers). It appears the union erroneously reported this payment in Item 48 (Office and Administrative) or Item 54 (Other Disbursements).

The union must report most direct disbursements to Local 366's 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).

3. Interest

Some interest income earned by Local 366 during the audit year was not reported in Item 41 (Interest). During 2007, Local 366 earned \$668 in interest but reported only \$544 in Item 41. It does not appear that the receipt of income was reported in any other receipt category.

4. Other Disbursements

Item 54 (Other Disbursements) includes two disbursements totaling \$752 in December of 2006 that should have been included in the amounts reported on the LM-3 for fiscal year 2006. The two disbursements, checks dated December 18, 2006, were recorded in the January 2007 disbursement ledger. Disbursements must be recorded and reported when the money is actually paid out by the labor organization.

5. Failure to File By-Laws

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. It is not clear when Local 366 amended its constitution and bylaws, but the copy of the by-laws under which Local 366 is currently operating had not been filed with OLMS prior to the audit.

Local 366 has now filed a copy of its constitution and bylaws.

The audit also revealed that some of Local 366's current practices regarding the disbursement of union funds are not consistent with the policies outlined in the by-laws, such as the maximum threshold for donations, the maximum threshold for amounts that are allowed to be disbursed by the executive board for emergencies, and the amount of per diem payments. You also advised that Local 366 is in the process of converting to by-laws that are consistent with the USW International Constitution. As mentioned above, Local 366 will be required to submit a copy of those by-laws with their LM report for the fiscal year in which the new by-laws were adopted.

I am not requiring that Local 366 file an amended LM-3 report for 2007 to correct the deficient items, but Local 366 has agreed to properly report the deficient items on all future reports it files with OLMS.

I want to extend my personal appreciation to USW Local 366 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: Anna Dimas, Financial Secretary
Ricki Schubert, Treasurer
Harold Koeppel, Vice President