

**U.S. Department of Labor**

Employment Standards Administration  
Office of Labor-Management Standards  
Charlotte Remote Location  
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Charlotte, NC 28271  
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May 19, 2009

Mr. Ben Moss, President  
Transportation Union Ind  
LU 1011  
PO Box 351  
Hamlet, NC 28345

LM File Number 017-152

Case Number: [REDACTED]

Dear Mr. Moss:

This office has recently completed an audit of UTU Local 1011 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 Treasurer Kirk Taylor and you on May 15, 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 1011's 2008 records revealed the following recordkeeping violations:

1. General Disbursements and Reimbursed Expenses

Local 1011 did not retain adequate documentation for direct disbursements and reimbursed expenses incurred by Treasurer Kirk Taylor, and Chairmen WJ Rackley III and RB Howe totaling at least \$15,178. For example, there was no documentation for disbursements to members for dues and insurance refunds. Additionally, no documentation was found for reimbursements to officers and chairmen for internet and phone bills.

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

2. Receipt Dates not Recorded

Entries in Local 1011's receipts journal reflect the date the union deposited money, but not the date money was received. Union 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-2. The LM-2 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. Lack of Salary Authorization

Local 1011 did not maintain records to verify that the salaries reported in Schedules 11 (All Officers and Disbursements to Officers) and 12 (Disbursements to Employees) of the LM-2 were the authorized amount and therefore were correctly reported. The union must keep a record, such as bylaws or meeting minutes, to show the current salary authorized by the entity or individual in the union with the authority to establish salaries.

Based on your assurance that Local 1011 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 1011 for fiscal year ending December 31, 2007, was deficient in the following areas:

1. Disbursements to Officers

Local 1011 did not report the names of some officers and the total amounts of payments to them or on their behalf in Schedule 11 (All Officers and Disbursements to Officers). The union must report in Schedule 11 all persons who held office during the year, regardless of whether they received any payments from the union.

The union must report in Column F of Schedules 11 and 12 (Disbursements for Official Business) direct disbursements to officers and employees for reimbursement of expenses they incurred while conducting union business. In addition, the union must report in Column F of Schedules 11 and 12 indirect disbursements made to another party (such as a credit card company) for business expenses union personnel incur. However, the union must report in Schedules 15 through 19 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. The union must report in Column G

(Other Disbursements) of Schedules 11 and 12 any direct or indirect disbursements to union personnel for expenses not necessary for conducting union business.

2. 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 1011 provided a copy of their most recent (undated) bylaws; however, these bylaws were not on file with OLMS.

Local 1011 has now filed a copy of its constitution and bylaws.

3. Delinquent Filing

Local 1011 failed to file their annual financial report for fiscal year ending December 31, 2008 to this date. As we discussed, your total receipts for 2008 are well below \$250,000 making your local eligible to file the simpler Form LM-3 for that fiscal year. Form LM-3 must be filed within 90 days after the end of your organization's fiscal year (12-month reporting period).

As agreed, Local 1011 will file the LM-3 for fiscal year ending December 31, 2008 with OLMS as soon as possible but not later than May 29, 2008, by mailing it to the Charlotte Remote Location address listed above.

Other Issues

1. Signature Stamps/Signing Blank Checks

During the audit, Treasurer Taylor advised that he had a signature stamp for the previous president and that you sign blank checks at the monthly meeting for him to use during the month. 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, signing a blank check 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 1011 review these procedures to improve internal control of union funds.

2. Inventory of Fixed Assets

As I discussed during the exit interview, the audit revealed that Local 1011 does not maintain an inventory of fixed assets and are unclear whether officers and chairman have union owned computers, equipment, or furniture. OLMS recommends that you immediately identify the fixed assets of the local and created a detailed inventory list to include description and serial numbers of electronic equipment.

I want to extend my personal appreciation to UTU Local 1011 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,



Lead Investigator

cc: Kirk Taylor, Treasurer