

U.S. Department of Labor

Employment Standards Administration
Office of Labor-Management Standards
Boston District Office
Room E-365
JFK Federal Building
Boston, MA 02203
(617)624-6690 Fax: (617)624-6606



September 16, 2009

Mr. Tom Lucido, President
Brotherhood of Utility Workers
Local 317
P.O. Box 38
Beverly, MA 01915-0001

LM File Number: 015-946
Case Number: [REDACTED]

Dear Mr. Lucido:

This office has recently completed an audit of Brotherhood of Utility Workers (BUW) Local 317 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 current treasurer Mike Daly and former treasurer Kirk Bredbenner on September 16, 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 317's 2007 records revealed the following recordkeeping violations:

1. General Reimbursed and Credit Card Expenses

Local 317 did not retain adequate documentation for general expenses, reimbursed expenses incurred by union officers, and credit card expenses totaling at least \$11,385.06. For example, the local did not maintain any records for expenses charged in its American Express credit card for purchases of fuel, office supplies, car rentals, etc.

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. Lost Wages

Local 317 did not retain adequate documentation for lost wage reimbursement payments made to the employer on behalf of union officers totaling at least \$16,127.44. 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 317 only retained documents in three instances to identify the officer who had lost time from work for union business. During the exit interview, Local 317 received a sample of an expense voucher that it may use to satisfy this requirement. The sample identifies the type of information and documentation that the local must maintain for lost wages and other officer expenses.

3. Information not Recorded in Meeting Minutes

During the audit, Mr. Daly and Mr. Bredbenner advised OLMS that the membership authorizes all expenses over \$200 at monthly membership meetings; however, the local did not consistently maintain minutes for all meetings and document financial expenditures authorized at those meetings. Minutes of all

membership or executive board meetings must report any disbursement authorizations made at those meetings.

4. Lack of Salary Authorization

Local 317 did not maintain records to verify that the salaries and allowances reported in Item 24 (All Officer and Disbursements to Officers) of the LM-3 were the authorized amounts and therefore were correctly reported. The union must keep a record, such as meeting minutes, to show the current salary, allowances, and any benefits authorized by the union.

Based on your assurance that Local 317 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 317 for fiscal year ending December 31, 2007 was deficient in the following areas:

1. Disbursements to Officers (LM-3)

Local 317 did not include some payments to officers in Item 24 (All Officers and Disbursements to Officers). For example, the local did not properly report reimbursements made to the employer on behalf of officers for salary paid by the employer while the officers were conducting union business. Although the union does not directly pay the salary of its officers in these cases, such reimbursements to the company are essentially for the "lost time" of union officers and must be reported as officer salary in Item 24, Column D. It appears the union erroneously reported these payments in Item 24, Column E (Allowances and Other Disbursements) and in Item 54 (Other Disbursements).

Additionally, Local 317 did not report the names of some officers and the total amounts of payments to them or on their behalf in Item 24 (All Officers and Disbursements to Officers). For example, the local did not report the identity of the national representative or any salary or disbursements received by him. The

union must report in Item 24 all persons who held office during the year, regardless of whether they received any payments from the union.

The union must report most direct disbursements to Local 317 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. Total Receipts and Total Disbursements

It appears that the cash figures reported in Item 44 (Total Receipts) and Item 55 (Total Disbursements) are not the total income and expenditure figures according to the union's books after reconciliation with the bank statements. The instructions for Form LM-3 explain that under Statement B, receipts must be recorded when money is actually received by the labor organization and disbursements must be recorded when money is actually paid out by the labor organization.

3. Surety Bond Incorrectly Reported

Local 317 failed to correctly report the amount of its surety bond. Although it reported being bonded for \$20,000, the local is actually covered for \$7,500. Local 317 must correctly report the maximum amount recoverable under its fidelity bond in Item 20.

I am not requiring that Local 317 file an amended LM report for 2007 to correct the deficient items, but Local 317 has agreed to properly report the deficient items on all future reports it files with OLMS.

Other Issue

Expense Policy

As was discussed during the exit interview with Mr. Bredbenner and Mr. Daly, the audit revealed that Local 317 does not have a clear policy regarding the circumstances under which officers may claim mileage for travel reimbursement and the circumstances under which officers may charge fuel expenses to union credit cards. OLMS recommends that Local 317 review its expense reimbursement policy and improve the internal control of union funds by maintaining a single process (either mileage voucher or credit card fuel charge) of compensating officers for use of their personal vehicles for union business. OLMS recommends that the local adopt written guidelines concerning such matters.

I want to extend my personal appreciation to BUW Local 317 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,

Mark Letizi
District Director

cc: Mr. Mike Daly, treasurer
Mr. Kirk Bredbenner, former treasurer