

U.S. Department of Labor

Office of Labor-Management Standards
Charlotte Remote Worksite
PO Box 79303
Charlotte, NC 28271
(704) 849-8653



May 18, 2010

Mr. Henry Rose, President
Longshoremens ASN AFL-CIO
LU 1838
211 W. 10th Street
PO Box 10007
Southport, NC 28461-0007

Case Number: [REDACTED]
LM Number: 015557

Dear Mr. Rose:

This office has recently completed an audit of ILA LU 1838 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 Financial Secretary/Treasurer Clifton Galloway and you on May 12, 2010, 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 1838's 2009 records revealed the following recordkeeping violations:

1. Receipt Dates not Recorded

Entries in Local 1838's receipts records 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-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.

2. General Reimbursed and Credit Card Expenses

Local 1838 did not retain adequate documentation for credit card expenses incurred by you totaling at least \$6,512. For example, there were no itemized receipts found for gas, airfare, hotels, and miscellaneous charges at Walmart.

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.

3. Lack of Salary Authorization

Local 1838 did not maintain records to verify that the salaries reported in Item 24 (All Officer and Disbursements to Officers) of the LM-3 was the authorized amount and therefore was correctly reported. The union must keep a record, such as 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 1838 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 1838 for fiscal year ending December 31, 2009, was deficient in the following areas:

1. Disbursements to Officers (LM-3)

Local 1838 did not include some reimbursements to officers totaling at least \$1,807.79 in the amounts reported Item 24 (All Officers and Disbursements to Officers). It appears the union erroneously reported these payments in Item 48 (Office & Administrative Expense) or Item 54 (Other Disbursements).

The union must report most direct disbursements to Local 1838 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. 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 1838 amended its constitution and bylaws in 2005, but did not file a copy with its LM report for that year.

Local 1838 has now filed a copy of its constitution and bylaws.

3. Other Receipts/Disbursements

Local 1838 did not include in the amounts reported in Item 43 (Other Receipts) and Item 54 (Other Disbursements) the amount received from Financial Secretary Treasurer Galloway or disbursed to SSA Cooper to buy back his hours in order to meet the 700 hours required to receive annual benefits totalling at least \$8,300.

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. Since Statement B reports all cash flowing in and out of your organization, "netting" is not permitted. "Netting" is the offsetting of receipts against disbursements and reporting only the balance (net) as either a receipt or disbursement. In this case it appears that you failed to report the receipt from Mr. Galloway or the disbursement to SSA Cooper since the net amount was \$0.

I am not requiring that Local 1838 file an amended LM report for 2009 to correct the deficient items, but Local 1838 has agreed to properly report the deficient items on all future reports it files with OLMS.

Other Issues

1. Duplicate Receipts

Members of Local 1838 pay dues directly to the union. Mr. Galloway records dues payments on duplicate receipts, but he does not issue receipts to dues payers in order. OLMS recommends that Local 1838 issue duplicate receipt in their pre-numbered order. A duplicate receipt system is an effective internal control because it ensures that a record is created of income which is not otherwise easily verifiable. If more than one duplicate receipt book is in use, the union should maintain a log to identify each book, the series of receipt numbers in each book, and to whom each book is assigned.

2. Signing Blank Checks

During the audit, you advised that you occasionally sign blank checks. Your union's bylaws require that all checks be signed by the president and treasurer. 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 1838 review these procedures to improve internal control of union funds.

I want to extend my personal appreciation to ILA LU 1838 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,



Senior Investigator

cc: Mr. Clifton Galloway, Fin. Secretary/Treasurer