

U.S. Department of Labor

Office of Labor-Management Standards
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March 24, 2011

Mr. Mark Ohler, President
United Independent Aerosol Workers
531 North Center Avenue, Suite 206
Somerset, PA 15501-1437

Case Number: [REDACTED]
LM Number: 541152

Dear Mr. Ohler:

This office has recently completed an audit of United Independent Aerosol Workers 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 and Treasurer Nancy Baumgardner on March 24, 2011, 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.

Reporting 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 United Independent Aerosol Workers 2010's records revealed the following recordkeeping violations:

1. Professional Expenses

The United Independent Aerosol Workers did not retain adequate documentation for payments made by the union for professional fees. For example, on March 22, 2010, payment of \$2,557.00 was made to Louis V. Amando, Inc. The union did not maintain documentation, such as a bill or invoice to support the payment. In addition, on March 22, 2010, a payment of \$2,559.00 was made to the law firm of Jubelirer, Pass & Intrieri, however; no documentation was maintained to support the disbursement. .

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

The United Independent Aerosol Workers did not retain adequate documentation for lost wage reimbursement payments to union officers totaling at least \$600.00. 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 the United Independent Aerosol Workers did not maintain any documentation, other than the check written to the officers, for payment of the lost time. The union did not record the reason for the payment on the union checks.

During the exit interview, I provided a sample of an expense voucher the United Independent Aerosol Workers 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. Failure to Record Receipts

The United Independent Aerosol Workers did not record in its receipts records cash receipts totaling \$195.00. For example, on March 25, 2010, the union deposited \$100.00 cash into the union account but did not record the source of the receipt or any explanation of the money received. Union receipts records must include an adequate identification of all money the union receives. The records should show the date and amount received, and the source of the money.

4. Information not Recorded in Meeting Minutes

During the audit, Officers Baumgardner and Ohler advised OLMS that the membership authorized each union member to receive \$100.00 for Christmas during a membership meeting that occurred in November 2009. The union reported the approval was recorded in the meeting minutes. However, the union was unable to locate the meeting minutes.

Minutes of all membership or executive board meetings that report any disbursement authorizations made at those meetings must be maintained. The union has agreed to maintain all meeting minutes in the future.

Based on your assurance that the United Independent Aerosol Workers 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 the United Independent Aerosol Workers for the fiscal year ending May 31, 2010 was deficient in the following areas:

1. Disbursements to Officers

The United Independent Aerosol Workers did not include reimbursements to officers totaling at least \$9,400.00 in the amounts reported in Item 24 (All Officers and Disbursements to Officers). It appears the union erroneously reported these payments in Item 48 (Benefits) and Item 54 (Other Disbursements). For example, lost time payments totaling \$600.00 that were paid to officers during the fiscal year were reported under Item 54 when the payments should have been reported under Item 24 (All Officers and Disbursements to Officers). In addition, a check to cash for \$8,800.00 which was endorsed by Treasurer Baumgardner, which was used as a Christmas donation to members, should have been included in 24 (All Officers and Disbursements to Officers).

The union must report most direct disbursements to local union 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. Financial Items

The LM-3 Report for the fiscal year ending May 31, 2010 contained additional errors. The financial items, listed under Item 25 through Items 55 were not filled out correctly. On many occasions the LM-3 Report was not completed with an appropriate entry but was left blank. All lines must be completed with an appropriate number of a "0."

The United Independent Aerosol Workers must file an amended Form LM-3 for fiscal year ending May, 31, 2010, to correct the deficient items discussed above. I provided you with a blank form and instructions, and advised you that the reporting forms and instructions are available on the OLMS website (www.olms.dol.gov). The amended Form LM-3 should be submitted to this office at the above address as soon as possible, but not later than April 15, 2011. Before filing, review the report thoroughly to be sure it is complete, accurate, and signed properly with original signatures.

Other Violation

The audit disclosed the following other violation:

Inadequate Bonding

The audit revealed a violation of LMRDA Section 502 (Bonding), which requires that union officers and employees be bonded for no less than 10 percent of the total funds those individuals or their predecessors handled during the preceding fiscal year.

The compliance audit found that although local union officers are currently bonded for \$40,000, the union has a \$400.00 deductible on the bond. The deductible must be removed. The United Independent Aerosol Workers should have this deductible removed immediately. Please provide proof of updated bonding coverage to this office as soon as possible, but not later than April 15, 2011.

I want to extend my personal appreciation to United Independent Aerosol Workers 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: Ms. Nancy Baumgardner, Treasurer
Mr. Douglas Ream, CPA