



June 7, 2017

Mr. Marvin Mallory, President
Transport Workers Local 212
2800 South High Street
Columbus, OH 43207-3658

Case Number: 350-6008448
LM Number: 542604

Dear Mr. Mallory:

This office has recently completed an audit of Transport Workers Local 212 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 on May 15, 2017, 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 212's 2015 records revealed the following recordkeeping violations:

1. General Reimbursed Expenses

Local 212 did not retain adequate documentation for reimbursed expenses incurred by union officers totaling at least \$294.83. For example, [REDACTED] was reimbursed \$93.24 on May 18, 2015 for “food for union meeting” without supporting documentation.

As 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 212’s check register reflect the source and 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.

3. Information not Recorded in Meeting Minutes

During the audit, you advised OLMS that meeting minutes for the audit year do not exist due to the fact that the union has not had a regular recording secretary for several years. Article XVI, Section 3 of the Constitution for Transport Workers Union of America requires meeting minutes of all membership and executive board meetings be taken by the recording secretary. In the event that the recording secretary position is combined with the financial secretary position, the requirement to maintain meeting minutes fall to the financial secretary.

Meeting minutes are essential to the financial records of a union. Disbursement authorizations as well as a record of discussions made at membership or executive board meetings should be maintained for at least three years.

4. Lost Wages

Local 212 did not retain adequate documentation for lost wage reimbursement payments. 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 212 officers did not identify on the lost wage vouchers the union business conducted.

Enclosed is a compliance tip sheet, *Union Lost Time Payments*, that contains a sample of an expense voucher Local 212 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.

5. Loans to Officers

Local 212 issued a loan to Leland Anderson in November 2014 in the amount of \$781.00. The loan contract in the Local 212 files is un-dated, and does not specify the frequency of repayments, the due date of the repayments, or whether interest or what percentage of interest would be charged. In addition, there is no indication of what Mr. Anderson provided the union to back the loan should he fail to re-pay, or any record of approval of the loan by the membership.

During our initial interview, you mentioned that former TWA Local 212 officer [REDACTED] [REDACTED] also received a loan in 2015 in the amount of \$700 which was repaid at the end of the year. The records for Local 212 did not contain any documentation to support this loan such as a loan contract. In addition, there is no record of payment in the check register, bank statements, or deposit receipts.

6. Reconciliation of Union Records

The CAP of Local 212 revealed that the union is not maintaining an accurate record or running balance of the union's holdings. Specifically, the check register total is changed when a new bank statement is received to reflect the totals reported on the bank statement. Therefore, the checking account is never reconciled.

As discussed during the exit interview, this method of recordkeeping could jeopardize the union's assets in that checks can be returned for insufficient funds by the bank (bounced) because the correct amount of union funds on hand at any given time is not recorded in the union's records.

As we discussed, it is very important that Local 212 send an officer to the Transport Workers International training for financial officers at the next offering.

The proper maintenance of union records is the personal responsibility of the individuals who are required to file Local 212's LM report. You should be aware that under the provisions of Section 209(a) of the LMRDA and Section 3571 of Title 18 of the U.S. Code, willful failure to maintain records can result in a fine of up to \$100,000 or imprisonment for not more than one year, or both. Under the provisions of Section 209(c) of the LMRDA and Section 3571 of Title 18 of the U.S. Code, willful destruction or falsification of records can result in a fine of up to \$100,000 or imprisonment for not more than one year, or both. The penalties provided in Section 209(c) and Section 3571 of Title 18 apply to any person who caused the violations, not just the individuals who are responsible for filing the union's LM report.

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 212 for the fiscal year ended December 31, 2015, was deficient in the following areas:

1. Cash Reconciliation

Every LM report filed with the Office of Labor/Management Standards must balance. This is easily verified by adding the beginning cash figure (Item 25-A) to the total receipts (Item 44), and then subtracting the total disbursements (Item 55). The result of that computation should equal the ending cash figure (Item 25-B).

The original LM-3 report filed by TWA Local 212 was out of balance by \$786. The report was returned to Local 212, and an amended report was filed. The amended report was out of balance by \$5,835.

As mentioned previously, Local 212 should be reconciling their bank account every month. By doing this, the union is assured of the actual amount of its holdings at any given time. In addition, the accurate information contained in the union's records can be used to prepare an accurate LM-3 report that balances.

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 212 amended its constitution and bylaws, but did not file a copy with its LM report for that year. Local 212 furnished OLMS with a copy of its latest bylaws. This copy, however, is un-signed and un-dated.

As discussed, Local 212 will file a copy of their latest bylaws, signed and dated, with their next LM report.

3. Item 26 Loans Receivable

Line 26 (loans receivable) of the amended LM-3 report filed by Local 212 for 2015 has \$5,834 in column A, and zero (0) in Column B. Line 43 (other receipts) is also zero (0), and there is no explanation in item 56 (additional information) as to how the loans receivable balance was reduced to zero if no payments were received by the union.

I am not requiring that Local 212 file another amended LM report for 2015 to correct the deficient items, but Local 212 has agreed to properly report the deficient items on all future reports it files with OLMS.

Mr. Marvin Mallory

June, 7, 2017

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I want to extend my personal appreciation to Transport Workers Local 212 for the cooperation and courtesy extended during this compliance audit. I strongly recommend that you make sure this letter and the enclosed compliance assistance materials are passed on to future officers. If we can provide any additional assistance, please do not hesitate to call.

Sincerely,



Investigator

Enclosures