

U.S. Department of Labor

Employment Standards Administration
Office of Labor-Management Standards
Washington, D.C. 20210



September 30, 2008

Mr. S. Richard Elliott, Sr.
President
International Union of Journeymen and Allied Trades
93 Lake Avenue
Danbury, CT 06810

RE: International Compliance Audit Program (I-CAP)
International Union of Journeymen and Allied Trades
(IUJAT)
LM File Number 000-185

Dear Mr. Elliott:

The Office of Labor-Management Standards (OLMS) within the Department of Labor completed a compliance audit of the International Union of Journeymen and Allied Trades (IUJAT), to assess its compliance with the provisions of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA). The audit was conducted under the OLMS International Compliance Audit Program (I-CAP).

On April 25, 2008, the I-CAP Team conducted an exit interview with you; Mr. William G. Sweeney, Jr., Secretary-Treasurer; Mr. Richard Greenspan, outside counsel; Mr. Vincent Panettieri, independent accountant; and Mr. Edward L. Byrne, Secretary-Treasurer, United Service Workers Union (USWU). At that time, and during a follow-up conference call conducted on September 25, 2008, the I-CAP Team reviewed audit findings, specified actions that the IUJAT must take to correct the deficiencies identified, and recommended actions to enhance the union's internal controls. This letter captures the audit's civil findings as generally discussed during the exit interview and follow-up conference call. It does not purport to be an exhaustive list of all possible problem areas, since the audit was limited both in scope and duration.

Reporting Deficiencies - LMRDA Section 201(b)

Section 201(b) of the LMRDA requires that every labor organization file with OLMS an annual financial report that accurately discloses the union's financial condition and operations. The following deficiencies were noted on the IUJAT Form LM-2 for the fiscal year ending December 31, 2007. The deficiencies identified in this section must be corrected in an amended Form LM-2 for the 2007 fiscal year reporting period. Further, subsequent Form LM-2 filings must be prepared so as not to contain these deficiencies.

1. The IUJAT incorrectly reported \$1 -\$10 per member as the rate of dues and fees in Item 21 (Dues and Fees). However, IUJAT does not receive dues or fees; this is the monthly per capita tax rate. The IUJAT must remove the information reported in Item 21.
2. The IUJAT failed to report fuel expenses that were to be reimbursed by an affiliate (specifically IUJAT Local 726) as accounts receivable. The LM-2 instructions require the reporting of all accounts receivable at the start and end of the reporting period in Item 23 (Accounts Receivable) and more specific information regarding accounts receivable at the end of the reporting period in Schedule 1 (Accounts Receivable Aging Schedule).
3. The IUJAT did not report all accounts payable at the end of the reporting period in Schedule 8 (Accounts Payable Aging Schedule) and Item 30 (Accounts Payable). The I-CAP Team reviewed a sample of accounts payable as of December 31, 2007 and determined that at least \$827 in accounts payable were not included in the total reported in Schedule 8 and Item 30. All accounts payable must be reported in Schedule 8 and Item 30.
4. The IUJAT incorrectly included the cost, depreciation, and value (\$19,487) of a vehicle in Schedule 6 (Fixed Assets) and the value of the vehicle in Item 27 (Fixed Assets) that is not owned by the IUJAT and is actually instead owned by the United Service Workers Union (USWU). Although the IUJAT pays for the use and operation of the vehicle, it is titled to the USWU, and must be removed from Schedule 6 and Item 27 of the IUJAT's Form LM-2.
5. Regarding the above USWU-owned vehicle, the IUJAT incorrectly reported an auto loan payable in Schedule 9 (Loans Payable) and Item 31 (Loans Payable). The IUJAT must remove this loan liability from Schedule 9 and Item 31.

6. The IUJAT incorrectly reported disbursements for the leasing of a shredder with a \$1 purchase option in Schedules 15 through 19. Because it is a capital lease, the lease disbursements must be reported in Schedule 4 and Item 60 (Purchase of Investments and Fixed Assets) and the value of the shredder must be reported in Schedule 6 and Item 27 (Fixed Assets).
7. The IUJAT incorrectly reported meeting room expenses on Schedules 11 (All Officers and Disbursements to Officers) and 12 (Disbursements to Employees). These types of expenses must be reported on Schedule 19 (Union Administration).
8. The IUJAT reported "Reimbursed Expenses" in Column (C) as the purpose of disbursements made to USWU in Schedule 15 (Representational Activities). This description is not sufficient to identify the purpose. More descriptive purposes are also necessary to clarify if these reimbursed expenses are correctly reportable in Schedule 15 or, instead, are reportable in Schedules 16, 17, 18, or 19. The LM-2 instructions state that the purpose reported in Column (C) of Schedules 15 through 19 means a brief statement or description of the reason the disbursement was made. The IUJAT must report more descriptive purposes for payments made to the USWU.
9. The IUJAT reported disbursements for payroll services, insurance, and telephone in Schedule 15 (Representational Activities). These types of disbursements are reportable in Schedule 18 (General Overhead) unless they were paid for a specific representational expense, such as for a phone bank set up to coordinate an organizing campaign, in which case the disbursements must be reported in Schedule 15.
10. The IUJAT reported disbursements to the United Welfare Fund in Schedule 15 (Representational Activities). These disbursements were transfers from the IUJAT to the United Welfare Fund to reimburse the fund ostensibly for fund administrative expenses. These types of reimbursed expenses are typically reported in Schedule 18 (General Overhead) or Schedule 19 (Union Administration).
11. The IUJAT reported time percentages of 99% in the functional category of "Representational Activities" for the vast majority of officers and employees in Schedules 11 (All Officers and Disbursements to Officers) and 12 (Disbursements to Employees). These percentages are reported not only for the Director of Organizing and Business Representatives, but also for executive

officials, administrative officials, and trustees whose job functions would appear to be reportable in a higher percentage to the functional categories of "Union Administration" or "General Overhead." For example, per Article 7 of the IUJAT's Constitution and Bylaws, the Secretary-Treasurer handles multiple administrative and financial responsibilities that should be reported in functional categories other than "Representational Activities." Functional time percentages reported in Schedules 11 and 12 that are based on estimates provided by individual officers and employees must correspond to the descriptions of the functional categories contained in the Form LM-2 instructions.

12. The IUJAT reported disbursements totaling \$2,571,024 in Item 58 (Fees, Fines, Assessments, etc.). IUJAT records indicate that these disbursements were paid to USWU as a monthly rebate of per capita payments intended to provide an organizing subsidy to USWU and its local unions. As such, these disbursements are reportable in Schedule 15 (Representational Activities).

Inadequate Recordkeeping - LMRDA Section 206

Pursuant to Section 206 of the LMRDA, every person required to file any report under LMRDA Title II shall maintain records on the matters reported that will provide in sufficient detail the necessary information from which the reports filed may be verified, explained, or clarified and checked for accuracy and completeness. All required records must be maintained for at least five years following the date the financial report is filed. Records over five years must be maintained if they are necessary to verify reports filed within the last five years. Records, such as meeting minutes that note approval for spousal travel or officer salary increases, must be maintained for as long as they remain necessary to verify current financial activities of the union. There were instances noted during this audit where the IUJAT did not comply with the recordkeeping requirements of Section 206. During the exit interview, you were informed that adequate records necessary to document all financial transactions, regardless of the amount, must be maintained for a minimum of five years.

13. The IUJAT did not maintain adequate documentation for some expenses incurred by its officers and employees. Labor organizations must retain original receipts, bills, and vouchers for all disbursements.

The IUJAT reimbursed officers and employees for meal expenses despite submission of non-itemized meal receipts. The union must maintain itemized receipts provided by restaurants to officers and employees. These itemized

receipts are necessary to determine if such disbursements are for union business purposes and to fulfill the recordkeeping requirement of the LMRDA Section 206.

The IUJAT did not retain fuel receipts as supporting documentation for the reimbursement of fuel expenses incurred by officers and employees. Unions must retain original receipts, bills, and vouchers for all disbursements. IUJAT officials informed the I-CAP Team that the practice of retaining fuel receipts has been initiated for fiscal year 2008.

14. The monthly billing statements that the IUJAT maintains as supporting documentation for reimbursements totaling \$88,000 paid to the USWU, as reported in Schedule 15 (Representational Activities), are not sufficiently detailed to identify the nature and purpose of the expenses paid and the goods and services provided. The billing statements identify only "Expenses" for the purpose of thousands of dollars of reimbursements. Such limited supporting documentation is insufficient to clarify if these reimbursed expenses are correctly reportable in Schedule 15 or, instead, are reportable in Schedules 16, 17, 18, or 19. Unions must maintain adequate supporting documentation for all disbursements in order to fulfill the requirements of LMRDA Section 206.
15. IUJAT employees who were assigned union vehicles did not maintain mileage logs documenting the business use of vehicles. Mileage logs are required to be maintained for each vehicle documenting the date, locations traveled to and from, number of miles driven, and business purpose for each use. These mileage logs should be maintained contemporaneously with vehicle usage.

Bonding - LMRDA Section 502

Section 502(a) of the LMRDA requires that every person who handles funds or other property of the union shall be bonded for no less than ten percent of the total funds handled by those individuals or their predecessors during the preceding fiscal year, but in no case more than \$500,000. The audit disclosed a violation of LMRDA Section 502.

16. The IUJAT has a commercial crime policy for its bonding coverage. The I-CAP Team determined that this policy was not in compliance with LMRDA Section 502. The policy was deficient in that it failed to define "employee" broadly enough to cover non-compensated officials of the organization who handle funds or other property. In addition, the policy did not cover computer fraud

or transfers of funds. The union has since obtained a policy that meets the requirements of LMRDA Section 502.

Office Holding Prohibitions - LMRDA Section 504

Section 504 of the LMRDA prohibits persons convicted of certain offenses from holding labor organization office or employment for a period of thirteen years from the date of conviction or release from prison, whichever is later. It is also a violation of Section 504 for another person to willfully and knowingly hire, retain, employ or otherwise place the barred person in a prohibited capacity.

17. Although the IUJAT requires annual affirmations from its personnel asserting compliance with LMRDA Section 504, the union does not conduct criminal background checks of officers or employees. In order to ensure that individuals do not hold office or employment in violation of Section 504, the I-CAP Team recommends that the IUJAT establish a system for determining whether any officer or employee have disqualifying criminal records. During the exit interview, the I-CAP Team emphasized the importance of verifying background information.

Internal Controls

Adequate internal financial controls are essential to prevent the misuse of union funds and to support financial responsibility and other obligations under Title II and Title V of the LMRDA. Title V of the LMRDA stipulates, among other things, the fiduciary responsibility of officers of labor organizations. As a general rule, weaknesses in financial controls can lead to violations of Section 501 of the LMRDA.

18. The audit revealed that duties involving the cash receipts process were not adequately segregated. IUJAT receipts are processed by the USWU pursuant to an agreement. The USWU procedures do not adequately segregate receipt duties to safeguard IUJAT assets. Currently, one USWU employee receives the receipts, records the receipts in the general ledger and prepares the deposit slips. The I-CAP Team recommends that one employee receive and list incoming receipts and reconcile the list with cancelled deposit slips; another employee record receipts into the general ledger; and a third employee prepare the deposit slips and make deposits.

Other Issue

19. The I-CAP Team noted that Article 12, Section 5 of the IUJAT Constitution and Bylaws requires affiliates to file monthly reports with the IUJAT on organizational and bargaining activities, in addition to copies of collective bargaining agreements. The union's current practice of not maintaining copies of its affiliates' collective bargaining agreements is not in accordance with its Constitution and Bylaws. The I-CAP Team recommends that the union maintain copies of its affiliates' collective bargaining agreements in accordance with its Constitution and Bylaws.

As discussed during the exit interview, the IUJAT must submit, within thirty days from the date of this letter, a response letter to this closing letter and an amended Form LM-2 for the fiscal year ending December 31, 2007. The response letter should identify the corrective actions implemented by the IUJAT based on the results of this compliance audit. We will schedule an on-site follow-up in approximately six months to review corrective actions taken, to discuss the amended Form LM-2 report filed by the USWU, and to continue cooperative efforts to prevent and correct LMRDA deficiencies.

Please accept my appreciation for the cooperation and courtesy extended by you and your staff during this compliance audit. If you have any questions, please do not hesitate to contact me.

Sincerely,



James D. Devine, Chief
Division of International Union Audits

cc: William G. Sweeney, Jr., Secretary-Treasurer