

U.S. Department of Labor

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August 31, 2009

James D. Flickinger, President
International Brotherhood of DuPont Workers, Ind.
565 Horseshoe Circle
Stuarts Draft, VA 24477

RE: International Compliance Audit Program (I-CAP)
International Brotherhood of DuPont Workers, Ind.
LM-000-355

Dear President Flickinger:

The Office of Labor-Management Standards (OLMS) within the Department of Labor recently completed a compliance audit of the International Brotherhood of DuPont Workers, Ind. (IBDW) 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 August 31, 2009, the I-CAP investigator conducted an exit interview with you. During the exit interview, the I-CAP investigator reviewed audit findings, identified actions that the IBDW 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. 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 Violation - LMRDA Section 201(a)

Section 201(a) of the LMRDA requires that every labor organization that amends its constitution and bylaws file a copy of the revised documents when the union files its next annual financial report with OLMS.

1. The version of the IBDW constitution that was on file with OLMS at the start of the audit was dated May 2004. The audit disclosed that the constitution was amended and changed in October 2006. The amended constitution was required to be filed with IBDW's FYE June 30, 2007 Form LM-3. The IBDW's LM-3 for that period affirmed the IU made changes to its constitution by marking item 21 "yes" however no document was filed. A copy of the most recent version of the constitution has now been filed by the IBDW with OLMS. The I-CAP investigator informed the IBDW that Form-3 instructions require that if the labor organization's constitution and bylaws were changed in the reporting period (other than rates of dues or fees), a dated copy of the new constitution and bylaws must be submitted to OLMS with the Form LM-3 for that reporting period.

Reporting Deficiencies - LMRDA Section 201(b)

Section 201(b) of the LMRDA requires that labor organizations file with OLMS an annual financial report that accurately discloses the union's financial condition and operations. The following deficiencies were noted on IBDW Form LM-3 for the fiscal year ending June 30, 2008. The deficiencies identified in this section must be corrected in an amended Form LM-3 for the fiscal year 2008 reporting period. Further, subsequent Form LM-3 filings must be prepared so as not to contain these deficiencies.

2. Disbursements to Officers

The union must report most direct disbursements to IBDW 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).

The IBDW did not include reimbursements to officers totaling at least \$2,622.95 in the amounts reported in Schedule 24 (All Officers and Disbursements to Officers). It appears the union erroneously reported these payments in Item 54 (Other Disbursements). These reimbursements must be reported next to the names of the officers or employees who received the reimbursement in Column E in Item 24.

3. Reporting of Office and Administrative Expense

The union must report ordinary office and administrative and all taxes assessed against and paid by the organization. Additionally, any disbursements for hotel rooms or for transportation by public carrier of officers and employees on official business may be reported in Item 48 when payment is made directly to the provider or through a credit arrangement.

The IBDW failed to properly report disbursements for office expenses totaling approximately \$10,606.85, including \$2,043.00 for "communications" such as phone, fax, internet services payments; \$7,134.15 for "convention expense" payments made directly to the union's credit card or provider; \$1,429.70 for federal, local, and payroll taxes. It appears the union erroneously reported these payments in Item 54 (Other Disbursements). These reimbursements must be reported in Item 48 (Office and Administrative Expense).

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.

4. Reimbursed Office Expense

The IBDW did not retain adequate documentation for expenses incurred by its officers and employees. Labor organizations must retain original receipts, bills, and vouchers for all disbursements. In certain instances, receipts, bills, and vouchers were not retained for officer and employee lodging, airfare, internet services, and office expenses. For example, no receipts were maintained to support check # [REDACTED] for \$620.40 for office supplies reimbursement made out to Treasurer David Gibson. Additionally, receipts were not retained for purchases

made with the IU's AMEX card. The monthly AMEX statement is not sufficient enough documentation. The union must maintain itemized receipts provided by vendors to officers and employees. These itemized receipts are necessary to determine if such disbursements are for union business purposes and to sufficiently fulfill the recordkeeping requirement of LMRDA Section 206.

Inadequate Bonding - LMRDA Section 502

Section 502 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.

5. At the start of the audit, the IBDW had bonding coverage of \$25,000, an amount in compliance with the LMRDA with a Treasury approved surety company. However, the coverage had a deductible of \$1,000. This \$1,000 deductible as any type of self-insurance of union funds, in whole or in part, fails to meet the requirements of Section 502. During the audit, the IBDW amended its coverage and no longer has a deductible.

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.

6. The IBDW does not conduct criminal background checks of officers or employees. During the audit, the I-CAP investigator emphasized the importance of verifying background information to ensure individuals do not hold office or employment in violation of LMRDA Section 504. The I-CAP investigator recommended that the IBDW establish a system for determining whether any officer or employee have disqualifying criminal records. The IBDW agreed to obtain a statement from all new IBDW officers and employees stating that they are not prohibited by reason of Section 504 from becoming an officer or employee of the IBDW.

Other Issues

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. Title IV of the LMRDA requires that labor organizations maintain a list of all members in that, for union officer elections, every bona fide candidate shall have the right to inspect a list of the names and last known home addresses of all members.

7. An inadequate safeguard against underreporting of per capita receipts by the IBDW's affiliates was disclosed in that the IBDW does not receive a dues check-off record or any documentation with a local's per capita payment to verify the amount of per capita due to the IU. Furthermore, the IBDW does not maintain a list of the names and last known home addresses of its members in violation of Title IV. The IBDW must maintain such records and should obtain regularly updated membership information from its affiliates which will also verify the amount of per capita due to the IU.

As discussed during the exit interview, the IBDW will submit, within thirty days from the date of this letter, an amended Form LM-3 for the fiscal year ending June 30, 2008 and a response letter to this closing letter. The response letter should identify the corrective actions implemented by the IBDW 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-3 filed by the IBDW, 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,

Peter Papinchak, District Director
Philadelphia District Office

cc: David Gibson, Treasurer