

U.S. Department of Labor

Employment Standards Administration
Office of Labor-Management Standards
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July 27, 2006

Mr. Joe Silva, President
Retail Wholesale, DC, UFCW
Local 1064
21800 West Ten Mile Road, Suite 219
Southfield, MI 48075

Re: Case Number: ~~_____~~

Dear Mr. Silva:

This office has recently completed an audit of RWDSU Local 1064 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, RWDSU Representative Ron Duncan, RWDSU Vice President/Regional Director Randy Belliel, and RWDSU International Comptroller J. Robert Layng on July 14, 2006, 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

The CAP, which covered the fiscal year ending December 31, 2005, disclosed several recordkeeping violations of Title II of the LMRDA. Section 206 requires, among other things, that the president and treasurer or corresponding principal officers of each labor organization 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, all records used or received in the course of union business must be retained.

This includes, in the case of disbursements, not only the retention of original bills, invoices, receipts, and vouchers, but also adequate additional documentation, if necessary, 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 the case of receipts, the date, amount, purpose, and source of all money received by the union must be recorded in at least one union record. Bank records must also be retained for all accounts.

The audit revealed the following recordkeeping violations:

Receipts

Local 1064 failed to maintain some employer dues check-off lists. I recommend that RWDSU Local 1064 maintain copies of all checks issued by employers for dues check-off payments and note the check number on the duplicate receipts to make the relationship between receipts and bank deposits perfectly clear and easily verifiable.

Officer Salaries/Expense Allowances

Local 1064's bylaws provide that the president's salary and expenses are to be established by the general membership. There is no provision for the business agent's salary and expenses. During the audit, the union was unable to provide documentation to support the president and business agent's salaries. In addition, the bylaws state that executive board members may be paid a \$12.50 allowance for expenses incurred to attend executive board meetings. The audit revealed that executive board members received \$25.00 for each executive board meeting attended.

Such salary and expense allowance payments to officers may have been authorized or approved at past membership or executive board meetings, but the union's failure to keep detailed meeting minutes that document properly obtained authorization or approval of these payments prevented verification of their legitimacy. You agreed to ensure that there is a full understanding, either by the inclusion in the union's constitution and bylaws or in the form of membership or executive board authorizations recorded in meeting minutes, about the level of salary, allowances, and expenses (if any) to which the union's officers, employees, and members are entitled. I would appreciate it if you would send me copies of the relevant sections of your constitution and bylaws or meeting minutes that reflect authorization of your union's current levels of compensation.

Officer Expenses

The date, amount, and business purpose of every expense must be recorded on at least one union record. Where meal expenses are incurred, the names of individuals present

and the locations (names of restaurants) must be recorded. Union officers failed to maintain adequate documentation for all reimbursed expenses during the fiscal year. For example, an expense voucher submitted to reimburse Stephanie Perry for expenses incurred to attend the AFL-CIO Joint Council Meeting on September 7, 2005, had no supporting documentation attached to it.

Lost Time

The audit revealed that the local failed to accurately record all lost time payments in the payroll report maintained for the audit year. Some examples follow:

- Check number [REDACTED] was payable to Stephanie Perry in the amount of \$241.87. The payroll report stated that the amount of the check was \$128.44.
- Check number [REDACTED] was payable to Stephanie Perry in the amount of \$100.07. The payroll report stated that the amount of the check was \$85.62.

Inaccurate recording of lost time payments in the union's payroll reports could result in the inaccurate reporting of disbursements to officers and employees on the union's annual financial report that it files with this agency.

Other Expenditures

The audit also revealed that the union's meeting minutes do not provide a detailed description of the union's monthly expenditures that were read and approved at the executive board meetings held during the audit year. Had detailed meeting minutes been maintained, they might have provided additional information that would have helped to explain or clarify the transactions.

The recordkeeping requirement for disbursements can be most easily satisfied with a sufficiently descriptive bill, invoice, receipt, etc., that identifies the vendor's name and address, the date and amount of the transaction, and the goods or services provided. If a receipt is not sufficiently descriptive, then the union should note the missing information on the receipt. If the business purpose of the disbursement or the identity of the recipient(s) of the goods or services is not self-evident, then the union must note such information on the receipt or some other record. If a receipt is not provided by a vendor, then the union must create a record containing the above information with a notation that original documentation was not provided. The only exception to this policy is for expenses generated by the union (e.g., salary, lost time, etc.) which,

nonetheless, must be supported by some other type of documentation (e.g. lost time vouchers, payroll records, executive board and membership authorizations and/or approvals, etc.).

Conclusion/Recordkeeping Violations

Adequate records were not maintained for all financial transactions involving RWDSU Local 1064, in violation of Section 206 of the LMRDA. Contemporaneous, accurate, and complete records necessary to permit verification of the information required on your union's annual financial report must be preserved and kept available for examination for not less than five years after the report is filed.

The proper maintenance of union records is the personal responsibility of a union's president and treasurer. 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 also 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, not just the individuals who are responsible for filing the union's annual financial report.

As agreed, provided that in the future RWDSU Local 1064 maintains adequate documentation as discussed above, no additional enforcement action will be taken regarding these violations.

Reporting Violations

The CAP disclosed a violation of LMRDA Section 201(a) which requires that a union submit a copy of its revised constitution and bylaws with its annual financial report when constitution or bylaws changes are made. Local 1064 amended its bylaws in 1999, but a copy was not filed with its annual financial report for that year. A copy of Local 1064's constitution and bylaws has now been filed.

The CAP disclosed a violation of LMRDA Section 201(b), which requires labor organizations to file annual financial reports accurately disclosing their financial condition and operations within 90 days after the end of their fiscal year. The Labor Organization Annual Report (Form LM-3) filed by RWDSU Local 1064 for the fiscal

year ending December 31, 2005, was deficient in that the total receipts and total disbursements figures (Items 44 and 55, respectively) on the report do not agree with the corresponding figures in the union's records.

Conclusion/Reporting Violations

Like the proper maintenance of union records, the timely filing of a union's accurate and complete annual financial report is the personal responsibility of a union's president and treasurer or corresponding principal officers. 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 file reports 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(b) of the LMRDA and Section 3571 of Title 18 of the U.S. Code, the knowing falsification of a union's annual financial report, or the omission of material facts therefrom, can also 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(b) and Section 3571 of Title 18 apply to any person, not just the individuals who are responsible for filing the union's annual financial report.

I am not requiring that RWDSU Local 1064 file an amended report for the fiscal year ending December 31, 2005, to correct the deficient items, but as agreed, RWDSU Local 1064 will properly report the deficient items on all future reports filed with this agency.

Internal Financial Controls

Adequate internal financial controls are essential in order for a union to fulfill its obligations under Title II and Title V of the LMRDA. Besides those previously discussed, during our meeting I also encouraged RWDSU Local 1064 to implement the following internal financial controls:

- Require that all funds drawn on the union's bank accounts (e.g. checks, fund transfers, and withdrawals), have a second signature, regardless of the amount or purpose, and ensure that the cosigner fully understands that his/her fiduciary responsibilities require that the negotiable instruments be signed only after they are completely filled out and the cosigner knows the purpose and legitimacy of each transaction.

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- Union officers or employees that are not on dues check-off should remit their dues payments directly to Local 1064, not by cash given to another union employee to remit a personal check on their behalf.

I want to extend my personal appreciation to RWDSU Local 1064 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,

Ian Burg, District Director

By:

Investigator

cc: Jessie Travier, Secretary Treasurer