

U.S. Department of Labor

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April 11, 2008

Mr. Douglas Cuthbertson, Executive Officer
CWA Local 39521
433 Natoma Street, 3rd Floor
San Francisco, CA 94103

LM File Number: 036-746
Case Number: [REDACTED]

Dear Mr. Cuthbertson:

This office has recently completed an audit of CWA Local 39521 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, President Michael S. Cabanatuan, Treasurer George H. Powell, and the union's attorney Sheila K. Sexton on March 26, 2008, 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.

The CAP disclosed the following:

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 39251's 2007 records revealed the following recordkeeping violation:

Credit Card Expenses

Local 39521 did not retain adequate documentation for credit card expenses incurred by union officers and employees. The union only retains the American Express credit card statements and not the actual transaction receipts. As noted above, labor organizations must retain original receipts, bills, and vouchers for all disbursements.

Based on your assurance that Local 39521 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 violations 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-2) filed by Local 39521 for the fiscal year ending September 30, 2007 is deficient in the following areas:

1. Disbursements to officers

Local 39521 did not include some reimbursements to officers totaling at least \$38,105 in Schedule 11 (All Officers and Disbursements to Officers). Specifically, the union did not report payments for lost time and reimbursed expenses for Vice-President Silvia Barden in Schedule 11. These payments were reported as an itemized entry in Schedule 15 (Representational Activities). Silvia Barden is an employee of the court, but the union reimburses the court for her salary. During the audit year the union reimbursed the court for \$17,230.00 for Barden's salary. This amount should still be reported next to her name in Schedule 11 even though it is not paid to her directly. The union can enter an explanation in item 69(Additional Information Summary) that the union reimburses the court for her salary. All reimbursed expenses paid to Silvia Barden should still be reported next to her name in Schedule 11 even if those payments are not made in

her capacity as vice-president. Similarly, the union can enter an explanation in item 69 that these payments are made to her for duties related to the court interpreters unit rather than as the union vice-president.

The union must report in Column F of Schedules 11 and 12 (Disbursements for Official Business) direct disbursements to officers and employees for reimbursement of expenses they incurred while conducting union business. In addition, the union must report in Column F of Schedules 11 and 12 indirect disbursements made to another party (such as a credit card company) for business expenses union personnel incur. However, the union must report in Schedules 15 through 19 indirect disbursements for business expenses union personnel incur for transportation by public carrier (such as an airline) and for temporary lodging expenses while traveling on union business. The union must report in Column G (Other Disbursements) of Schedules 11 and 12 any direct or indirect disbursements to union personnel for expenses not necessary for conducting union business.

2. Unreported bank accounts

The audit revealed that three small bank accounts held by the typographical sector of the union were not included in the LM-2 report. The funds held in these three accounts at the beginning of the audit year totaled slightly less than \$14,000. The accounts are the Leon Olsen Defense Fund and the San Francisco and San Jose chapel funds. Although these accounts are for the use of the typographical sector, they are union funds and must be included in the LM-2 report.

3. Failure to file constitution and 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. At the time of the audit, Local 39521 had amended its constitution and bylaws, but had not yet filed a copy with the LM report. Local 39521 has now filed a copy of its constitution and bylaws.

4. Strike funds reported as a loan

During the audit year the union received \$338,250 from the national union to pay benefits to the court interpreters that were on strike. The funds that were not

disbursed by the end of the audit year totaling \$194, 550 were recorded as a loan on Schedule 9. Since the funds did not have to be repaid, this amount should not have been recorded as a loan.

I am not requiring that Local 38521 file an amended LM report for 2007 to correct the deficient items, but Local 39521 has agreed to properly report the deficient items on all future reports it files with OLMS.

Other Violations

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. Local 39521's officers and employees are currently bonded for \$190,000, but they must be bonded for at least \$256,000. Local 39521 should obtain adequate bonding coverage for its officers and employees immediately. Please provide proof of bonding coverage to this office as soon as possible, but not later than May 12, 2008.

Other Issues

The union has designated bank accounts which are used to make loans to members in need. As discussed at the exit interview, the audit revealed that there are no written guidelines for granting these loans. The union is strongly advised to adopt written rules for these loans. The union was also advised to design a basic form for members to use when applying for loans to provide uniform documentation about the amount and purpose of the loan and the repayment terms.

I want to extend my personal appreciation to CWA Local 39521 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,



Senior Investigator

cc: Mr. George H. Powell, Treasurer
Mr. Michael S. Cabanatuan, President
Sheila K. Sexton, attorney at law/Beeson Tayer & Bodine
Eben Lu, accountant