U.S. Department of Labor

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

December 8, 2005

Mr. James Spinoza
President
International Longshore and Warehouse Union, AFL-CIO
1188 Franklin Street
San Francisco, California 94109

Dear Mr. Spinoza:

The Office of Labor-Management Standards (OLMS) within the Department of Labor has recently completed a compliance audit at your headquarters under the International Compliance Audit Program (I-CAP). The purpose of this audit was to determine compliance with provisions of the Labor-Management Reporting and Disclosure Act of 1959, as amended (LMRDA) by the International Longshore and Warehouse Union, AFL-CIO (ILWU or IU), and affiliated unions. The I-CAP team conducted an exit interview on December 7, 2005 with you and William Adams, ILWU Secretary-Treasurer, to review its findings, including the issues and problem areas identified during the audit as well as actions recommended to correct deficiencies and enhance internal control.

You were informed at the exit interview that an amended Labor Organization Annual Report, Form LM-2, for the fiscal year ending December 31, 2004, is required to be submitted within thirty days from the date of this letter to correct reporting and other deficiencies. Specific information on these deficiencies is presented below. We will schedule an on-site follow-up in approximately six months to review corrective actions taken, to discuss the amended Form LM-2 filed by the IU, and to continue cooperative efforts to prevent and/or correct LMRDA deficiencies. This letter does not purport to be an exhaustive list of all possible problem areas since the compliance audit was limited in scope.

President James Spinoza

AUDIT DETAILS:

Reporting Deficiencies - LMRDA Section 201

Section 201 (b) of the LMRDA requires that unions file with OLMS an annual financial report that accurately discloses the unions financial condition and operations. The following deficiencies were noted on the ILWU Form LM-2 for the fiscal year ended December 31, 2004.

1. Statement A, Line 29, Investments, includes IU funds in savings accounts and in certificates of deposits that total $259,748 and Schedule 14 includes an entry for a Decrease in Investments for $196,436. These funds were misclassified and should be reported on Statement A, Line 25, Cash. The IU has agreed to make the necessary corrections on an amended Form LM-2 report for the fiscal year ending December 31, 2004.

2. Statement B, Line 41 of the Form LM-2 reflects Fees of $3,749,698. This amount is for Per Capita Tax and should be reported on Statement B, Line 40. The IU has agreed to make the necessary corrections on an amended report for the fiscal year ending December 31, 2004.

3. The IU identified in Column A of Schedule 1, two loans of $1,000 each, but failed to indicate whether the recipient of the loan was an officer or employee of the IU. The Form LM-2 instructions require a designation of "O" for officer or an "E" for employee in connection with loans receivable. The IU has agreed to accurately report Loans Receivable in future LM-2 filings.

4. Schedule 3, Other Assets, and Schedule 13, Office and Administrative Expense, include entries that are not sufficiently descriptive. For example, Schedule 3 lists categories described as Deposits and Prepaid Expenses. These descriptions do not sufficiently describe the type of asset. The IU has agreed to provide sufficient descriptions as required by the Form LM-2 instructions in future Form LM-2 filings.

5. Schedule 8, Loans Payable, lists the source of loans payable as PLMA, however this is an acronym and as such is not sufficiently descriptive to substitute for the name of the lender. The IU has agreed to accurately and sufficiently identify the source of the outstanding loans in future Form LM-2 filings.

6. Schedule 14, Other Receipts, and Schedule 15, Other Disbursements, include non-cash receipt and disbursement transactions. Non-cash transactions should be excluded from these schedules and included on Statement A. The IU will identify the receipts and disbursements that should be included in Statement A along with Schedules 14 and 15 and list those transactions on an amended Form LM-2 report for the fiscal year ending December 31, 2004.

Inadequate Recordkeeping - LMRDA Section 206

Pursuant to Section 206 of the LMRDA, every person required to file any report under this title shall maintain records on the matters reported which will provide in sufficient detail the information and data from which the documents 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. There were instances noted during this audit where the IU did not comply with the records requirements of Section 206. During the exit interview, ILWU officials were informed that back-up documentation must be maintained and retained for all disbursements, regardless of amount, for the required five-year period.

7. The I-CAP team selected a sample of disbursements for the audit period to determine whether the supporting documentation had been maintained and funds were used solely for union purposes. These records revealed that not all itemized receipts were maintained nor was a union purpose provided in all instances to support the disbursements sampled. The ILWU has agreed in the future to maintain itemized receipts and to include the union business purpose on all receipts.

8. The IU has a practice that recurring transactions may be processed for payment without approval by an authorized union official. There is no written IU policy that defines a recurring transaction. Accounting personnel made payments to the general counsel for $19,936 and to an electrical company for $6,479 without documented approval. These payments, given the dollar amount, do not appear to be recurring transactions. The I-CAP Team recommends the ILWU adopt a written policy outlining approval procedures for all disbursements and a formal definition for recurring transactions to better safeguard union funds. The IU has agreed to adopt a policy incorporating these recommendations.

Internal Controls

Adequate internal financial controls are essential in order for the union to fulfill its obligations under Title II and Title V of the LMRDA. During the ILWU audit, the I-CAP team identified internal control weaknesses in segregation of duties; failure to properly record, reconcile, and deposit receipts; and inadequate lease documentation.

9. The IU does not adequately segregate the duties for handling disbursements. One employee both prepares and distributes the checks. To ensure union funds are used solely for union purpose, the I-CAP Team recommends that the duties of the person who distributes checks be segregated from those of the employee who prepares or records the checks.

10. The IU currently does not list and reconcile receipts as they are received and insufficient documentation exists for receipts received at the IU. To avoid the potential for misuse of union funds, the I-CAP team recommends providing sufficient documentation by listing remittances of receipts when received at the ILWU and retention of these records. The I-CAP team also recommends reconciling the remittance list with the deposit slips from the bank. The ILWU has agreed to implement these recommended changes.

11. The ILWU currently leases office space; however, their rights and obligations are not adequately documented in the lease agreement. For example, the lease agreement does not address issues related to rent escalation. The I-CAP team recommends that a lease agreement that accurately reflects current lease terms be executed to preserve the union's rights and obligations. The IU has agreed to revise the lease agreement.

12. The IU only makes deposits on a weekly basis, regardless of the amount of receipts. The IU maintains large amounts of receipts, sometimes in excess of $300,000, in a locked file cabinet. In order to better safeguard IU funds, the I-CAP Team recommends that the IU maintain receipts in a fire-proof lockbox and make deposits on a more frequent basis, or daily if receipt amounts so warrant. The IU has agreed to implement these changes.

As discussed in the exit interview, the IU will submit an amended Form LM-2 for the fiscal year ending December 31, 2004 and a response to this closing letter. The response letter will identify the corrective actions implemented by the union based on the results of the compliance audit. In addition, the IU has agreed that the Form LM-2 filed for the fiscal year ending December 31, 2005 will also reflect the findings addressed in this letter. We will schedule an on-site follow-up in approximately six months to review LMRDA compliance and the amended Form LM-2, discuss the corrective actions that have been taken, and continue cooperative efforts.

We want to express our appreciation for the cooperation and courtesy extended by you and your staff during this compliance audit. If we can be of any assistance in the future, please do not hesitate to call us.

Sincerely,

[redacted] For

Kim R. Marzewski, Chief
Division of International Union Audits