

U.S. Department of Labor

Employment Standards Administration
Office of Labor-Management Standards
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June 29, 2006

Mark Folderauer, President
Food and Commercial Workers, AFL-CIO Local 392
1425 Woodall St.
Baltimore, MD 21230

Re: Case Number:

Dear Mr. Folderauer:

This office has recently completed an audit of United Food and Commercial Workers (UFCW) Local 392 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 and Ms. List on June 29, 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

Title II of the LMRDA establishes certain reporting and recordkeeping requirements. Section 206 requires, among other things, that adequate records be maintained for at least 5 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 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 note can be written on it providing the additional information. An exception may be made only in

those cases where 1) other equally descriptive documentation has been maintained, and 2) there is evidence of actual oversight and control over disbursements.

The audit of Local 392's 2005 records revealed the following recordkeeping violations:

Officer and Employee Expenses

Union officers and employees failed to maintain adequate documentation for reimbursed expenses, for expenses charged to union credit cards, and for lodging expenses that were direct-paid by the union. The date, amount, and business purpose of every expense must be recorded on at least one union record. In addition, the names of individuals present for meal expenses and the locations (names of restaurants) where meal expenses were incurred must be recorded.

Lost Time

Some vouchers submitted by union personnel for lost time do not identify the union business conducted that required lost time be incurred. The lost time claims must identify each date lost time was incurred, the number of hours lost on each date, the applicable rate of pay, and a description of the union business conducted.

Office Supplies

Adequate documentation was not retained for some purchases of office supplies. Receipts must be retained for all purchases.

As agreed, provided that Local 392 maintains adequate documentation as discussed above in the future, no additional enforcement action will be taken regarding these violations.

Reporting Violations

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. The Labor Organization Annual Report (Form LM-3) filed by Local 392 for fiscal year ending December 31, 2005, was deficient in the following ways:

Some Payments to Officers Not Properly Reported

Local 392 failed to include some disbursements to officers in Item 24 (All Officers and Disbursements to Officers). Such payments appear to have been erroneously reported in Item 54 (Other Disbursements).

All direct disbursements to Local 392 officers and some indirect disbursements made on behalf of its officers must be reported 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. An "indirect disbursement" to an officer is a payment to another party (including credit card companies) 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).

Failure to File Bylaws

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 LM report when constitution or bylaw changes are made. Local 392 amended its constitution and bylaws in 1992, but a copy was not filed with its LM report for that year. A copy of Local 392's constitution and bylaws has now been filed.

I am not requiring that Local 392 file an amended LM report for 2005 to correct the deficient items, but as agreed, Local 392 will properly report the deficient items on all future reports filed with this agency.

Other Violations

The CAP disclosed the following other violations:

Countersignature (Signing Blank Checks)

During the audit, you advised that President Folderauer signs blank checks in advance. The countersignature requirement is an effective internal control of union funds. Its purpose is to attest to the authenticity of a completed document already signed. However, countersigning a blank check in advance does not attest to the authenticity of a completed check, and completely circumvents and undermines the whole purpose of the countersignature requirement. I strongly recommend that Local 392 review these procedures to improve internal control of union funds.


Lost Time Policy

The CAP also showed that Local 392 does not have a definitive lost time policy, approved by the membership, that specifically provides which officers are

entitled to receive lost time payments from Local 392, and under what circumstances. As we discussed during the closing interview, Local 392 will discuss and solidify its lost time policy at its next general membership meeting and will provide me with copies of the meeting minutes outlining the approved lost time policy.

I want to extend my personal appreciation to 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,


Investigator

cc: Janet List, Secretary-Treasurer