

U.S. Department of Labor

Employment Standards Administration
Office of Labor-Management Standards
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August 16, 2006

Mr. Robert Zeller, President
International Brotherhood of Electrical Workers Local 1593
409 6th Avenue Northeast
Hazen, ND 58545

Re: Case Number

Dear Mr. Zeller:

This office has recently completed an audit of Electrical Workers Local 1593 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, Treasurer Ron Terfehr, Business Agent Nate Corbin, Tom Schwab and the Executive Board on May 18, 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.

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 of Local 1593's 2005 records revealed the following recordkeeping violations:

1. Officer and Employee Expenses

Union officers and employees failed to maintain adequate documentation for at least \$7,600 in expenses charged to union credit cards and lodging expenses that were directly paid by the union. As an example, Local 1593 failed to retain a hotel receipt for a \$599 expense for a two-day trip to Washington, DC that was charged to the union credit card. During the audit you obtained copies of all missing lodging receipts and provided additional information to explain the business purpose of most credit card expenses. In addition to the recordkeeping requirements described above, 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.

2. Automobile Expenses

Union officers and employees who were assigned union-owned and leased automobiles failed to maintain mileage logs documenting the business use of union vehicles. In the case of union-owned and leased vehicles, logs are required to be maintained for each union vehicle documenting the date, number of miles driven, and business purpose of each use. In the case of reimbursed mileage expenses for personal vehicles used for business travel, records must be maintained which identify the date of travel, locations traveled to and from, number of miles driven, and the business purpose of each use.

The LM-2 instructions include specific rules for the reporting of automobile expenses. Operating and maintenance costs for each union-owned or leased vehicle must be reported in Schedules 11 and 12 of the LM-2, allocated to the officer or employee to whom each vehicle is assigned.

Local 1593 updated its recordkeeping policy for automobiles in January 2006 to include a provision requiring that mileage logs be maintained.

3. Disposition of Property

Local 1593 failed to maintain an inventory of at least \$6,100 worth of hats, jackets, and other property which was purchased and sold or given away. Records must be maintained that account for all union property. In the case of union hats, jackets, and other items sold to members, the date and amount received from every sale must be recorded in at least one record.

As agreed, provided that Local 1593 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-2) filed by Local 1593 for fiscal year ending December 31, 2005, was deficient in the following areas:

1. LM-2 Schedules 11 and 12 (All Officers and Disbursements to Officers/Disbursements to Employees)

Local 1593 failed to properly report direct and indirect disbursements to officers and employees. The audit revealed Local 1593 disbursed more than \$13,000 to credit card companies and also issued at least \$1,600 in reimbursements to officers and employees. Many of the disbursements were not properly reported.

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

Local 1593 reported direct and indirect disbursements totaling less than \$2,000 in Schedules 11 and 12. The disbursements discussed above appear to have been erroneously reported in Schedules 15 through 19.

Disbursements (some of which are included in the amounts noted above) totaling at least \$3,230 for the operation and maintenance of union automobiles were not properly reported. As previously noted above, the LM-2 instructions provide two methods for reporting automobile-related expenses. The expenses may be divided and reported in Columns F and G based on miles driven for union business (supported by mileage logs) compared with miles driven for personal use. Alternatively, rather than allocating the expenses between Columns F and G, if 50 percent or more of an officer's or an employee's use of a vehicle was for official business, the union may report all of the expenses relative to the vehicle assigned to the officer or employee in Column F of Schedule 11 or 12 with an explanation in Item 69 (Additional Information) that the vehicle was used part of the time for personal business. Similarly, if a vehicle assigned to an officer or employee was used less than 50 percent of the time for business, all of the expenses relative to that vehicle may be reported in Column G with an explanation in Item 69 that the vehicle was used partly for official business.

In the case of Local 1593, automobile related expenses were not included in the amounts reported in Schedules 11 and 12.

Local 1593 also failed to list Vice President Tony Aman and all members of the Executive Board, including total amounts of payments to them or on their behalf on Schedule 11 (All Officers and Disbursements to Officers). All persons who held office during the year must be reported in Schedule 11 regardless of whether or not they received any payments from the union.

2. 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 1593 amended its constitution and bylaws in 2005, but a copy was not filed with its LM report for that year. A copy of Local 1593's constitution and bylaws has now been filed.

Local 1593 must file an amended Form LM-2 for fiscal year ending December 31, 2005, to correct the deficient items discussed above. I explained to you the filing procedures and the availability of the filing software on the OLMS website (www.olms.dol.gov). The amended Form LM-2 must be electronically filed as soon as possible, but not later than September 4, 2006. Before filing, review the report thoroughly to be sure it is complete and accurate, and properly signed with electronic signatures.

Other Violation

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 handled by those individuals or their predecessors during the preceding fiscal year. The audit revealed that officers and employees were not bonded for the minimum amount required. Adequate bonding coverage was obtained, and documentation was provided during the audit. No further enforcement action will be taken.

Other Issues

1. Policy for Expenses

As discussed during the exit interview, the audit revealed that Local 1593 does not have a clear policy regarding what types of expenses may be charged to union credit cards. For example, lodging receipts show movies, meals, and bar tabs were charged in addition to the lodging expenses. Authorization of expenses is an important matter that should be recorded in union records. Our office is readily available to provide guidance to you regarding the requirements of the law as they would pertain to any policies your union might adopt. When written guidelines are adopted in the near future, I would appreciate it if you would forward a copy to me.

2. Withholding Taxes


Union records show that Local 1593 did not deduct taxes from payments to members/employees for lost time payments in 2005. While this office has no authority to interpret the state or federal tax code, I recommend you contact the Internal Revenue Service and obtain the following two publications: Circular E, Employer's Tax Guide (Publication 15) and Supplemental Employer's Tax Guide (Publication 15-A). These two publications, as well as other information about employment taxes for small organizations, can be found on the IRS website at

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www.irs.gov. Circular E discusses employees, taxable wages and compensation, the calculation of withholding taxes, and FUTA. The Supplemental Employer's Tax Guide contains employment tax information on employees of exempt organizations (the IRS categorizes labor organizations as tax exempt organizations under the Internal Revenue Code 501(c)(5)). I also suggest you determine Local 1593's state withholding tax, state unemployment insurance, and workers compensation requirements by contacting, respectively, the North Dakota Department of Revenue, the North Dakota Department of Unemployment Insurance, and the North Dakota Department of Labor & Industry.

I want to extend my personal appreciation to Electrical Workers Local 1593 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 are passed on to future officers. If we can provide any additional assistance, please do not hesitate to call.

Sincerely,


Investigator

cc: LM: 514-400


Ron Terfehr, Treasurer
Nate Corbin, Business Agent
Tom Schwab, Assistant Business Agent
Richard Jensen, Secretary
Tony Aman, Vice President
Jim Ferderer, Executive Board
Dwight Henke, Executive Board
Dan Leingang, Executive Board
Myron Mutzenberger, Executive Board
Sienna Sailer, Executive Board
Ken Senske, Executive Board
Rick Zastawniak, Executive Board