

U.S. Department of Labor

Employment Standards Administration
Office of Labor-Management Standards
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September 8, 2006

Mr. Mark Westphal, President
United Steelworkers Local 748
945 Hunt Avenue
Neenah, WI 54956

Re: Case Number

Dear Mr. Westphal:

This office has recently completed an audit of USW Local 748 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 Financial Secretary Peter Leyh on June 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

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 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 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 748's 2005 records revealed the following recordkeeping violations:

1. Receipts

Entries in Local 748's receipts journal reflected the date money was deposited, not the date money was received. The date of receipt is required to be kept in union records in order to allow the Secretary of Labor to verify, explain or clarify, and check for accuracy and completeness the receipts required to be reported on the Labor Organization Annual Report (Form LM-3) filed by Local 748. The LM-3 instructions for Statement B (Receipts and Disbursements) state that receipts must be recorded when money is actually received by the labor organization and disbursements must be recorded when money is actually paid out by the labor organization. Failure to record in union records the date that money was received could result in some receipts being reported on an LM-3 for a different year than when actually received. Local 748 should take steps to ensure that all receipts and disbursements are accurately recorded in union records.

Among the union's records was an IRS notice dated February 2, 2004, indicating that a refund of \$18.57 was paid to Local 748. There was no record of the amount in the union's receipts records, and no other records explained the disposition of this amount.

2. Holiday Party Fee Records

Local 748 held a holiday party in early 2006. It is my understanding that a \$5 reservation fee was collected from members – some collected during the audit year of 2005 and some collected in 2006 – and that the \$5 was returned on the night of the party to those members who attended. No documentation was found to support the receipt or disbursement of these fees. Receipt and disbursement records must be maintained for all money handled by a union, whether or not it is deposited to a bank account. In this case, at a minimum, it would have been sufficient to have recorded on a single sheet of paper the name of each member paying the fee, the amount collected, and the date collected, and to have indicated next to the name that the money was returned to the member and the date it was returned.

3. Mileage and Meal Expenses

Although the records show that you and Financial Secretary Leyh had little out-of-town business travel during the audit year, virtually no records were maintained to support your mileage and meal expenses for several Green Bay meetings and bargaining committee meetings. In the case of reimbursed mileage expenses for personal vehicles used for business travel, records must be maintained which identify each occasion of travel, the locations traveled to and from, the number of miles driven, and the business purpose. For meal expenses, restaurant expense receipts must be retained, and the date, amount, and business purpose 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. If an expense voucher is not used to document meal expenses, it is sufficient to write the relevant information on the restaurant expense receipt or cash register tape. I have provided Financial Secretary Leyh with a sample expense voucher, as he requested.

As agreed, provided that in the future Local 748 maintains adequate documentation as discussed above, no additional enforcement action will be taken regarding these violations.

Reporting Violations

The audit 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 748 for fiscal year ending December 31, 2005, was deficient in the following areas:

1. Items 4 through 8 (Mailing Information)

The mailing information was incorrectly reported in Items 4 through 8. The instructions state that if any of the information on the mailing label that comes with the blank forms package is incorrect, completed Items 4 through 8 in their entirety. Items 5 through 8 were not completed.

2. Item 24 (Officers and Disbursements to Officers)

The Employment Log maintained by Financial Secretary Leyh and corresponding journal entries show that Mr. Leyh received total gross salary (which includes salary plus lost wages) in 2005 of \$1,732.75. However, in Item 24, only \$1,503 in gross salary was reported in Column D (Gross Salary). In addition, the lesser amount of \$1,503 was reported on Mr. Leyh's W-2.

In Column E (Allowances and Other Disbursements), the amount of \$118 was reported. However, records show that Mr. Leyh received a total of \$140 in reimbursed expenses, which should have been reported in Column E.

3. Item 43 (Other Receipts)

The audit disclosed that four checks to Local 748 from Zaug's Vending Company issued in 2002, March 2005, April 2005, and June 2005 were not deposited until February and March 2006. The audit further disclosed that these checks were recorded in the Financial Secretary's Ledger in their month of deposit, February and March 2006, and not when they were received in 2002 and 2005. Consequently, it appears they failed to be recorded on the 2002 and 2005 LM-3.

NOTE: When completing the LM-3 report for 2006, remember not to include these Zaug checks received during previous years as money received in 2006.

4. Item 46 (Disbursements to Employees)

Payroll and other records show that member [REDACTED] was paid lost wages during 2005. However, no payments to [REDACTED] were reported in Item 46. The LM-3 instructions state that disbursements to individuals other than officers who receive lost time payments should be reported in Item 46 even if your organization does not consider them to be employees or does not make any other direct or indirect disbursements to them. Therefore, any member who is not an officer but who is paid for doing the business of the union is to be considered an "employee" for LM reporting purposes.

I am not requiring that Local 748 file an amended LM report for 2005 to correct the deficient items, but as agreed, Local 748 will properly report the deficient items on all future reports filed with this agency. Keep in mind that each time you sign the LM-3 report, you are declaring, under penalty of perjury and other applicable penalties of law, that all the information submitted on the report has been examined by you and is, to the best of your knowledge, true, correct, and complete.

Other Issues

The audit disclosed the following other issues:

1. Outstanding Checks

The monthly reconciliation in the Financial Officer's Ledger for the "Regular" bank account identifies an outstanding check total of \$694.90 carried forward each month


since at least January 2004 (which is the earliest record I reviewed). However, there is no identification of the check number(s) or the date(s) the check(s) was written. Similarly, the monthly reconciliation for the "Health & Welfare" account carries forward since at least June 2003 an outstanding amount of \$26 without further detail. If it is true that these amounts reflect outstanding checks, and that these outstanding checks have been determined by the union to be non-negotiable ("stale"), I recommend that the books be adjusted. For recordkeeping purposes, it is sufficient to return the funds to the book balance and make an entry in the books to explain the nature of the transaction. For reporting on the LM-3, it is sufficient to report the amount in Item 43 as an "other" receipt and provide an explanation in Item 56 (Additional Information).

2. Condition of Meeting Minutes

In examining Local 748's meeting minutes, I noticed that some of the minutes are recorded on loose sheets of paper and some loose pages are undated. I recommend that these minutes be assembled in a three-ring binder (or something similar) and that each page be noted with the meeting date. Meeting minutes are an important source of documentation for a union's financial affairs. Among other things, they are often the only written record of authorizations for disbursements of union funds and membership approval for business travel. The five year record retention provisions of the LMRDA apply to such meeting minutes, and they must be properly safeguarded against loss or destruction.

I want to extend my personal appreciation to USW Local 748 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: Peter Leyh, F/S
Dan VandenBush, USW Representative