

U.S. Department of Labor

Employment Standards Administration
Office of Labor-Management Standards
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February 1, 2007

Mr. Donald Winkle, Jr.,
Business Representative/Financial Secretary
Elevator Constructors, AFL-CIO
Local Union 14
3527 Harlem Road
Buffalo, NY 14225

Re: Case Number: [REDACTED]

Dear Mr. Winkle:

This office has recently completed an audit of 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 on January 30, 2007, 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.

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 14's 2006 records revealed the following recordkeeping violations. Adequate documentation was not retained for some disbursements including:

- Two disbursements by check to Gandy's Restaurant were not supported with a receipt.
- Several receipts were missing for disbursements made with the union credit card to the US Post Office and stores such as the Home Depot and Walgreens.

- One bill was not retained from the Lamm Post associated with check number 8419.
- A check issued to [REDACTED] for golf prizes was not supported with sufficient receipts, although authorization for the expense was outlined in the meeting minutes.

In addition, the audit revealed that several voided checks were not retained in the union records. Voided checks are considered records that are required to be maintained by the union.

As agreed, provided that Local 14 maintains adequate documentation as discussed above in the future, no additional enforcement action will be taken regarding this violation.

The CAP also disclosed a violation of LMRDA Section 201(b), which requires labor organizations to file annual financial reports accurately disclosing their financial condition and operations. A review of records for fiscal year ending December 31, 2005 was conducted since the union had not yet filed the 2006 annual report. The Labor Organization Annual Report (Form LM-3) filed by Local 14 for fiscal year ending December 31, 2005, was found to be deficient in the following areas:


1. Item 14 on the 2005 report was answered "yes". Item 14 should only be answered "yes" if the union received an audit or review of their books and records. The term "audit or review" does not include providing assistance in developing a bookkeeping system or merely compiling information from your organization's books and records to prepare the form LM-3 or other financial report.
2. The total numbers of members at the end of the reporting period as reported in Item 19 was incorrect.
3. The disbursements made to officers during the reporting period were reported incorrectly. In Item 24, all salaries and other direct and indirect disbursements to officers need to be reported in the appropriate columns. In addition, on Line 10 of Item 24, the organization should enter the total amount of withheld taxes, payroll deductions, and other deductions. Disbursements for the transmittal of withheld taxes, payroll deductions, and other deductions must be reported in Item 54 (Other Disbursements). Also on Item 24, deductions in Line 10 should be subtracted from Line 9 and the difference should be entered on Line 11. This amount equals the net disbursements to officers and is to be reported in Item 45. Local 14 failed to report this amount.
4. The amount reported in Item 49, professional fees, was reported incorrectly. The amount reported failed to include the funds disbursed from the union to Arcara & Borczynski, LLP. The amount only includes funds paid to Jeffery Gentner for professional services. In Item 49, the organization should report all "outside" legal and other professional services include auditing, computer consulting and arbitration.

5. The union failed to report any contributions, gifts or grants disbursed during the reporting period in Item 51. The audit revealed that during 2005, the union made several donations and/or contributions that should have been reported in Item 51.
6. The total disbursements reported in Item 55 of the LM-3 report was incorrect. The union's total disbursements was calculated by OLMS to be more than what was reported by the organization.

I am not requiring that Local 14 file an amended LM report for 2005 to correct the deficient items, but as agreed, Local 14 will properly report the deficient items on future reports. As discussed, for the upcoming 2006 LM report to be filed with this agency no later than March 31, 2007, the noted items should be corrected, and all disbursements should be accurately reported. Any further explanation can be provided in Item 56.

I want to extend my personal appreciation to you 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: Jeffrey Gentner, Accountant
66 Mapleleaf Drive
Williamsville, NY 14221