

U.S. Department of Labor

Employment Standards Administration
Office of Labor-Management
Standards
Buffalo District Office
130 South Elmwood Street
Room 510
Buffalo, NY 14202-2465
(716)842-2900 Fax: (716)842-2901



March 2, 2007

Mr. Dennis Call, President
Asbestos Workers, Local 4
976-B Union Road
West Seneca, NY 14224-3438

Re: Case No. [REDACTED]

Dear Mr. Call:

This office has recently completed an audit of Asbestos Workers Local 4 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, Business Agent Robert Hess, and Financial Secretary John Birch on March 1, 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.

The CAP disclosed the following:

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.

- Union officers and employees failed to maintain adequate documentation for reimbursed expenses and for expenses charged to union credit cards. 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.

- Union officers failed to record the date and/or purpose of lost wage claims. Records must be maintained that identify the date, number of hours lost, rate of pay, and the specific union purpose for all lost wages. The lost wage claims must identify each date lost wages were incurred, the number of hours lost on each date, the applicable rate of pay, and a description of the union business conducted.
- Union officers failed to record the purpose of travel where mileage was reimbursed. 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.
- Local 4 failed to record the details of some receipts including interest earned on the certificate of deposit, merchant rebates, and some direct dues received. Union receipts records must include an adequate identification of each receipt of money. The records should show the exact date the money was received, the identity of the source of the money, and the individual amount received from each source. When issuing receipts for dues and initiation fees, use them consistently and in sequential order.
- Local 4 failed to maintain an inventory of fixed assets as well as hats, jackets, and other property which were 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. In addition, the union must retain records that adequately account for all property purchased, sold, and given away.
- Local 4 records contained recordkeeping errors, including misreported figures on the Monthly Bills and Bank Statement that is presented at membership meetings, including three checks omitted (listed as VOID, Outstanding, or omitted all together), misreported disbursement total for one account for December 2006, and four typographical errors resulting in misreported check amounts. This monthly report is presented to your membership to gain their approval for disbursements and serves as a formal union financial record; therefore, it must be accurate.

The proper maintenance of union records is the personal responsibility of the individuals who are required to file Local 4's LM report. You should be aware that under the provisions of Section 209(a) of the LMRDA and Section 3571 of Title 18 of the U.S. Code, willful failure to maintain records can result in a fine of up to \$100,000 or imprisonment for not more than one year, or both. The penalties provided in Section 209(c) and Section 3571 of Title 18 apply to any person, not just the individuals who are responsible for filing the union's LM report.

As agreed, provided that Local 4 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 4 for fiscal year ending December 31, 2005, was deficient in the following areas:

- Local 4 failed to file on time. Annual report form LM-2 is due within 90 days from the fiscal year end. With a fiscal year end date of December 31st, the annual report for Local 4 is due by March 30th.
- OLMS calculations based on the Local 4 financial records for fiscal year 2005 revealed that the following items were reported incorrectly:
 - Item 22 (A) and (B), Start and End of Reporting Period Cash - Do not match reconciled union record totals
 - Item 40, Interest – Interest earned on the Greater Buffalo Savings Bank CD was not reported
 - Item 49, Total Receipts – OLMS totals based on union records including the CD interest from Item 40 do not match the reported amount
 - Item 68, Total Disbursements – OLMS totals based on union records do not match the reported amount
 - Schedule 11, Column F, Disbursements for Official Business - Direct disbursements to officers and employees for reimbursement of expenses incurred while conducting union business must be reported in Column F of Schedules 11 (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. 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.

I am not requiring that Local 4 file an amended LM report for 2005 to correct the deficient items, but as agreed, Local 4 will properly report the deficient items on all future reports filed with this agency.

Other Violations

- 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. Local 4's officers and employees are currently bonded for \$50,000, but they must be bonded for at least \$68,500.

Local 4 should obtain adequate bonding coverage for its officers and employees immediately. Please provide proof of bonding coverage to this office as soon as adequate coverage has been obtained, but not later than March 15, 2007.

Other Recommendations


- During the audit, I advised you that authorization for the salary amounts paid to union officers could not be found in union records. I recommend that Local 4 document the authorized salary amounts in its bylaws or record them in meeting minutes or some other internal document (following discussion in the appropriate membership and/or executive board meeting).
- During the audit, Business Agent Robert Hess disclosed that he occasionally uses the union credit card for personal purchases. In those instances Business Agent Hess pays for the personal charges with a personal check which is payable to the credit card company and included with the statement and union check. A union policy that allows personnel to make personal purchases with union credit cards is not recommended because such a policy is vulnerable to abuse.
- During the audit you disclosed that only one signature is required on union checks. In most cases, only Financial Secretary John Birtch reviews the checks before they are issued. Requiring a second signature on union checks is an effective internal control of union funds. Its purpose is to attest to the authenticity of a completed document already signed. I recommend that Local 4 review these procedures to improve internal control of union funds.
- The audit disclosed that Financial Secretary Birtch second endorsed a couple of allowance checks each month written to other officers. Financial Secretary Birtch explained that he takes extra money out of his personal account prior to the union meeting and "cashes" these allowance checks. He then deposits the checks into his personal bank account. He does this, in part, to ensure that these checks clear the union bank account in a timely manner to help with account reconciliation. I recommend that Local 4 review this practice, and find an alternative solution than having Financial Secretary Birtch cashing allowance checks.
- A review of the Asbestos Workers International Constitution, Article XXI, Local Union Officers, revealed that local 4 does not have a Financial Secretary and Treasurer as outlined. The constitution specifically addresses an exchange of financial records and information between these two officers that provide a system of checks and balances. Additionally, this review revealed that the trustees are to serve as an audit committee. During the audit you disclosed that only the accountant reviews/audits the union records.

Asbestos Workers Local 4
March 2, 2007
Page 5 of 5

I recommend that you review the constitution to ensure that you are following the structure and officer duties as outlined by the Asbestos Workers International.

I want to extend my personal appreciation to you, Business Agent Robert Hess, and Financial Secretary John Birtch 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: Business Agent Robert Hess
Same address

Financial Secretary John Birtch
S-5812 Vermont Hill Road
South Wales, NY 14139