

U.S. Department of Labor

Employment Standards Administration
Office of Labor-Management Standards
Minneapolis Resident Investigator Office
900 Second Avenue South
Minneapolis, MN 55402
(612) 370-3111 Fax: (612) 370-3107



January 16, 2007

Mr. Perry Sprague, President
Transport Workers Local 543
8009 34th Avenue South, Suite 130
Bloomington, MN 55425-1613

Re: Case Number [REDACTED]

Dear Mr. Sprague:

This office has recently completed an audit of Transport Workers Local 543 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 Treasurer James Harris on November 15, 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 record keeping 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 recipients of the goods or services. In most instances, this documentation requirement can be most easily satisfied with a sufficiently descriptive receipt. If a 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 following recordkeeping violations were revealed during the audit of Transport Workers' Union (TWU) Local 543's 2005 records:

1. Failure to Maintain Adequate Records for Expenses

The president and treasurer (or corresponding principal officers) of your union, who are required to sign your union's LM report, are responsible for the proper maintenance of union records. In the case of Local 543, the audit revealed adequate documentation was not retained for payments to vendors and for reimbursed expenses and credit card expenses incurred by union officers and employees. Specifically, Local 543 failed to retain receipts for credit card expenses totaling at least \$3,129.99. As an example, no receipt or other documentation was retained for a credit card charge at the RIO Hotel in Las Vegas for \$447.14 on September 23, 2005. Mr. Harris explained that the hotel expense was related to his attendance at the international convention, and Mr. Harris obtained a copy of the hotel invoice from the hotel during the audit. Other expenses for which adequate supporting documentation was not retained included expenses for hotel meeting rooms, internet subscription bills, software purchases, and meals. During the exit interview, I provided a list of these expenses to you and Mr. Harris, and you both provided information explaining the union business conducted that required the expenses be incurred.

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. Failure to Maintain Adequate Records for Shift Coverage and Salary

When officers are absent from work to conduct union business, Local 543 pays members up to \$250 to cover their shifts at work. These payments totaled at least \$2,000 during 2005. The officers do not lose any wages during such periods because they are paid by their employer. In some, but not all cases, Local 543 retained documents identifying the names of the officer(s) absent, the reason(s) for

their absence(s) (the union business conducted), and the names of the members who received the payments to cover the officers' shifts.

During the audit, you advised that union officers receive a monthly salary check to compensate them for some of the time that they work conducting union business.

In addition, they may receive payments for additional work such as contract negotiations, administrative duties, and various other tasks worked outside of their normal working hours. However, officers failed to maintain records that identify the dates worked and union business conducted on claims submitted for payments totaling at least \$9,600 for the additional work completed. Since the claims are for specific work completed over and above that covered by the officers' monthly salaries, records must be maintained that identify the date, number of hours worked, rate of pay, and the union business conducted. These records must be retained to verify, clarify and support information required to be reported in Item 24 (All Officer and Disbursements to Officers) of the Labor Organization Annual Report (Form LM-3) concerning payments to officers.

For example, in addition to Jim Harris' monthly salary checks, he received approximately \$7,100 in additional income from the union. Some of the check stubs indicate that some of the payments were for additional wages for time conducting union business. However, no records were retained that identify the dates, number of hours worked, wage rate claimed, or the union business conducted. With this letter I have included a sample expense voucher Local 543 may use that identifies the type of information and documentation that must be maintained for shift coverage and additional officer wages.

As agreed, provided that Local 543 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 543 for fiscal year ending December 31, 2005, was deficient in the following areas:

1. Item 20 - Bonding

The amount reported in Item 20 (Fidelity Bond) is incorrect. Local 543 reported in Item 20 that officers and employees were bonded for \$100,000. However, the audit revealed that during 2005, Local 543's officers and employees were bonded for only \$13,000.

2. Item 24 - All Officers and Disbursements to Officers

Local 543 failed to include credit card expenses and reimbursements to officers totaling at least \$2,250 in the amounts reported in Item 24 (All Officers and Disbursements to Officers). Such payments appear to have been erroneously reported under Item 48 (Office and Administrative Expense) and/or Item 49 (Professional Fees).

All direct disbursements to Local 543 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).

I am not requiring that Local 543 file an amended LM-3 report for 2005 to correct the deficient items, but as agreed, Local 543 will properly report the deficient items on all future reports filed with this agency.


Other Issues

Adequate Bonding

The audit revealed a violation of LMRDA Section 502 (Bonding), which requires that union officers and employees be bonded for no less than ten percent of the total funds handled by those individuals or their predecessors during the preceding fiscal year. The audit revealed that officers were not bonded for the minimum amount required. Adequate bonding coverage was obtained and documentation provided during the audit. No further enforcement action will be taken.

I want to extend my personal appreciation to Transport Workers Local 543 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

Enc: Sample expense vouchers

cc: James Harris, Treasurer
LM 533-833