

**U.S. Department of Labor**

Employment Standards Administration  
Office of Labor-Management Standards  
Detroit District Office  
211 West Fort Street  
Room 1313  
Detroit, MI 48226  
(313)226-6200 Fax: (313)226-4391



January 29, 2007

Ms. Sofia Delosrios, Financial Secretary  
United Protective Workers of America, Local 1  
21500 Oakwood Blvd.  
Dearborn, MI 48124

Re: Case Number: [REDACTED]

Dear Ms. Delosrios:

This office has recently completed an audit of United Protective Workers of America Local 1 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 Local 1 Committee Chairman Dwayne Smith on September 29, 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**

The CAP, which covered the fiscal year ending September 30, 2005, disclosed several recordkeeping violations of Title II of the LMRDA. Section 206 requires, among other things, that the president and treasurer or corresponding principal officers of each labor organization maintain adequate records 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 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 revealed the following recordkeeping violations:

Receipts:

The required receipt information noted above was not present on each of the duplicate receipts retained by Local 1. In addition, such receipts had been removed from the original receipt book(s) and were stapled together in numeric order. All duplicate receipts, including voided receipts, should be maintained in their original books to permit the accounting of all receipts issued during a particular period of time. Also, the union failed to maintain several duplicate receipts that were issued to members for dues paid during August 2005, prior to the implementation of Guardsmark's payroll dues deduction program.

Furthermore, the total amount of money collected, as recorded on the duplicate receipts and on the shift seniority lists signed by paying members, was approximately \$150.00 more than the amount deposited into the union's bank account. At least two individuals collected dues during this period, but adequate internal controls were not employed to determine accountability. You stated that you personally deposited some of the money collected by the two individuals, but that you did not think to compare the money they gave you with the total payments recorded on the receipt records.

While it is likely that the discrepancy was not intentionally caused and is attributable to the inadequacy of the union's internal controls, the absence of detailed supporting records could possibly lead to a different conclusion. Section 501(c) of the LMRDA makes it a federal crime, punishable by a maximum fine of \$250,000 and/or imprisonment of not more than five years, for a labor union officer or employee to embezzle or otherwise convert union funds or property to his own use or the use of another. Although criminal prosecution is not being contemplated at this time, please be advised that it would not be precluded in the future if this office receives additional negative information bearing on these matters.

To avoid a similar situation in the future, I strongly recommend that duplicate receipts include the initials or name of the person who issued them and a notation as to whether the payment was received in cash or by check. In addition, if separate receipt books are issued to officers or others for collection of money on the union's behalf, then the union should maintain a record which identifies to whom receipt books are assigned and the specific receipt numbers contained in each book for which each individual is accountable.

You stated that you do not foresee any need to collect dues directly from members in the future and that you do not intend to allow members to make cash payments to the union for

any other reasons. In the unlikely event that cash needs to be collected, you assured me that the financial controls we discussed would definitely be put in place.

Disbursements:

The recordkeeping requirement for union disbursements can be most easily satisfied with a sufficiently descriptive bill, invoice, receipt, etc., that identifies the vendor's name and address, the date and amount of the transaction, and the goods or services provided. If a receipt is not sufficiently descriptive, then the union should note the missing information on the receipt. If the business purpose of the disbursement or the identity of the recipient(s) of the goods or services is not self-evident, then the union must note such information on the receipt or some other record.

If a receipt is not provided by a vendor, then the union must create a record containing the above information with a notation that original documentation was not provided. The only exception to this policy is for expenses generated by the union (e.g. salary, lost time, etc.) which, nonetheless, must be supported by some other type of documentation (e.g. payroll records, lost time vouchers, executive board and membership authorizations and/or approvals, etc.).

Lack of Documentation for Cash Withdrawals:

The LMRDA requires unions to maintain adequate records supporting the disposition of the proceeds of cash expenditures. Local 1 failed to maintain documentation for several cash withdrawals from its savings account. For example, the withdrawal slip for a \$880.00 withdrawal in December 2004 was not signed, but bore a notation indicating that the cash was for holiday dues refund payments to members. Meeting minutes indicate member authorization of such payments. However, although you and Mr. Smith recalled being asked to sign a document, possibly a seniority list, when you received your dues refunds, you were unable to locate this record, or any other record showing the names of the members who received refunds and the dates and amounts of such refunds.

The audit also disclosed cash withdrawals in lesser amounts for expenses of officers and, perhaps, other individuals. None of the withdrawals were supported by bills, invoices, receipts, or other sufficiently descriptive records.

Besides keeping signed withdrawal slips for cash withdrawals from any of the union's bank accounts, Local 1 should require two signatures for all cash withdrawals. Two signatures are required for checks under the Local 1 bylaws and would help to safeguard the funds in the union's savings account.

Officer Expenses:

Like cash withdrawals for officer expenses, Local 1 also failed to maintain adequate documentation for expenses reimbursed to officers by check. For example, a \$170 check to former President Brain Duneske, which you thought might have been a reimbursement for the purchase of the union's fax machine, was not supported by any documentation. The date, amount, and business purpose of every expense must be recorded on at least one union record and sustained by suitably explanatory bills, invoices, receipts, etc., where provided. When meal expenses are incurred, the names of individuals present and the locations and the names of the restaurants must be recorded. In a number of instances, check payments to officers were identified in the disbursement ledger as reimbursements for "miscellaneous" expenses. A more detailed description of the expense must be recorded in at least one union record.

Lost Time Reimbursement:

The audit revealed that some officers and other union members received compensation for lost wages, but that the union did not maintain any records, such as lost time vouchers, to substantiate these payments. You stated that, in the past, officers and other members were required to present their employer payroll check stubs to the secretary-treasurer in order to receive lost wages, but that the union did not maintain copies of these check stubs in its records. Records must be maintained that identify the date, number of hours lost, rate of pay, and the specific union purpose for all lost wages. During the exit interview, I provided a sample expense voucher that Local 1 may use to record the type of information and documentation that must be maintained for lost wages and other officer expenses. Since it has been the past practice of the union to require a member to produce his or her employer check stub in order to receive lost wages, I strongly suggest that a copy of the check stub be attached to the voucher as additional documentation.

Article VI, Section 2 of the Local 1 bylaws provides that lost wages will be paid for actual time lost from work, but does not address compensation for time worked absent a loss of wages. During the opening interview, you and President Christopher Staff stated that officers or other members can be compensated for any time worked on official union business, even if the work was performed during periods of time when the person would not have been paid by his employer. You stated that this policy, as well as the policy prohibiting lost wages from being claimed for union business conducted when an individual would have been working overtime, were approved by the union in the past, but you are not aware of the existence of formal written policies.

Such policies may have been authorized or approved at past membership or executive board meetings, but the union's failure to keep detailed meeting minutes that document

properly obtained authorization or approval of the policies prevents verification of their legitimacy. You agreed to ensure that there is a full understanding, either by the inclusion in the union's constitution and bylaws or in the form of membership or executive board authorizations recorded in meeting minutes, about the level of wages, allowances, and expenses (if any) to which the union's officers, employees, and members are entitled. During the exit interview, you indicated that the union plans to update the bylaws in the near future and that you would ensure that a provision clarifying the union's current compensation policies be included. I would appreciate it if you would send me copies of either the relevant sections of such revised bylaws or meeting minutes that reflect authorization of your union's current policies.

At the time of the audit, Local 1 did not have in its possession original canceled checks. As we discussed during the exit interview, your union is permitted to use a truncated checking account (an account in which original canceled checks are not returned to the account holder), only if the financial institution retains the original checks or complete, clear, and legible images of the front and back sides of original checks for the required five years, and provides the checks (originals or copies) to the union without substantial delay. As long as the union can readily obtain images of the canceled checks from the bank, then this does not appear to be an issue that requires immediate attention. However, I recommend that you discuss with the bank the requirement that the records be maintained for five years, and ensure that the bank meets this requirement. If the bank does not maintain original or imaged canceled checks for five years, you must make arrangements for the local to do so.

#### Conclusion/Recordkeeping Violations

Adequate records were not maintained for all financial transactions involving Local 1, in violation of Section 206 of the LMRDA. Contemporaneous, accurate, and complete records necessary to permit verification of the information required on your union's annual financial report must be preserved and kept available for examination for not less than five years after the report is filed.

The proper maintenance of union records is the personal responsibility of a union's president and treasurer. 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. Under the provisions of Section 209(c) of the LMRDA and Section 3571 of Title 18 of the U.S. Code, willful destruction or falsification of records can also 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 annual financial report.

You agreed that, in the future, Local 1 will maintain adequate documentation as discussed above. Therefore, no additional enforcement action will be taken regarding these violations at this time.

### Reporting Violations

The CAP disclosed violations of LMRDA Section 201(b), which requires labor organizations to file annual financial reports accurately disclosing their financial condition and operations within 90 days after the end of their fiscal year. The Labor Organization Annual Report (Form LM-3) filed by Local 1 for the fiscal year ending September 30, 2005, was deficient in the following areas (it should be noted that the audit conducted was not intended to identify all possible reporting violations):

- The total receipts and total disbursements figures (Items 44 and 55, respectively) do not agree with the corresponding figures in the union's records.
- The reported cash figures do not balance (reconcile). Specifically, cash at the start of the year (Item 25(A)) plus total receipts (Item 44) minus total disbursements (Item 55) does not equal cash at the end of the reporting period (Item 25(B)). Either one or more of the reported figures is inaccurate or the cash shortage or overage must be explained in Item 56 (Additional Information).
- Wage payments to former Local 1 Secretary-Treasurer Val Kurzynski were underreported in Column (D) of Item 24 (All Officers and Disbursements to Officers). All gross payments made to officers for salary, lost wages, or time devoted to union activities must be included.
- Cash or check payments to officers for reimbursement of union-related purchases or other out-of-pocket expenses were improperly reported in Office and Administrative Expense (Item 48). With few exceptions, all direct and indirect disbursements to 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 (room rent charges only) or for transportation by a public carrier (such as an airline) for an officer traveling on official union business may be reported in Office and Administrative Expense (Item 48). Reimbursements to an officer for the purchase of investments or fixed assets, like a fax machine purchased for office use, must be reported in Item 52 (Purchase of Investments and Fixed Assets) and explained in Item 56 (Additional Information).

### Conclusion/Reporting Violations

Like the proper maintenance of union records, the timely filing of a union's accurate and complete annual financial report is the personal responsibility of a union's president and treasurer or corresponding principal officers. 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 file reports can result in a fine of up to \$100,000 or imprisonment for not more than one year, or both. Under the provisions of Section 209(b) of the LMRDA and Section 3571 of Title 18 of the U.S. Code, the knowing falsification of a union's annual financial report, or the omission of material facts from a report, can also 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(b) and Section 3571 of Title 18 apply to any person, not just the individuals who are responsible for filing the union's annual financial report.

You agreed to properly report the deficient items on all future reports filed with this agency. Therefore, no additional enforcement action will be taken regarding these violations at this time.

### **Internal Financial Controls**

Adequate internal financial controls are essential in order for a union to fulfill its obligations under Title II and Title V of the LMRDA. Besides those previously discussed, during our meeting I also encouraged Local 1 to implement the following internal financial controls:

- Ensure that prior membership or executive board authorization be obtained for large or unusual transactions and that such authorizations be completely and accurately recorded in meeting minutes maintained in a bound book to ensure preservation. In addition, copies of monthly financial reports should be attached to the minutes documenting approval of the reports.
- Establish an internal audit committee or trustees to conduct regular, periodic examinations of the union's books and records.
- Ensure accountability and simplify recordkeeping by issuing all checks directly to merchants, organizations, or other entities requiring union payment, and not to officers or other members for reimbursement of purchases or expenses.

I want to extend my personal appreciation to Local 1 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,

Ian Burg, District Director

By:

\_\_\_\_\_

Investigator

cc: Christopher Staff, President  
Dwayne Smith, Chief Committeeperson