

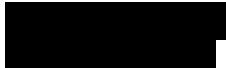
U.S. Department of Labor

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September 30, 2013

Mr. Patrick Hunt, Trustee
CWA Local 1038



Re: Case Number: 130- 15376 [REDACTED]

Dear Mr. Hunt:

This office has recently completed an audit of CWA Local 1038 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 1038's bookkeeper Linda Price on September 27, 2013, 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 labor organizations 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, labor organizations must maintain all records used or received in the course of union business.

For disbursements, this includes not only original bills, invoices, receipts, vouchers, and applicable resolutions, but also documentation 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 union officer or employee should write a note on it providing the additional information. For money it receives, the labor organization must keep at least one record showing the date, amount, purpose, and source of that money. The labor organization must also retain bank records for all accounts.

The audit of Local 1038's records revealed the following recordkeeping violations:

1. Failure to maintain cancelled checks for union's general fund checking account:

Local 1038 did not maintain canceled checks for monthly bank statements during the audit period. You explained that the financial institution which held the union's general fund checking account no longer provides cancelled checks with bank statements. However, you were able to retrieve the canceled checks for the requested months which allowed for a more thorough analysis of the union's disbursement records.

2. Failure to accurately record receipts and disbursements in Quick Books general ledger program

Local 1038 inadvertently entered amounts for receipts twice in the ledger which incorrectly inflated the amount of receipts. Also, the local failed to enter receipts which decreased the amount of receipts. You explained that there were clerical errors made in QuickBooks. Additionally, the union's PayChex payroll system and QuickBooks are not integrated in the general ledger. Therefore, the general ledger does not provide an accurate reflection of salary disbursements which decreased the amount of total disbursements. However, you explained that your staff made improvements by employing Mrs. Price who has significant knowledge in Quick Books data entry and recordkeeping to maintain an accurate reflection of union's receipts and disbursements.

Based on your assurance that Local 1038 will retain adequate financial documentation in the future, OLMS will take no further enforcement action at this time regarding the above violations. However, the union is required to amend the union's LM-2 report for fiscal year ending September 30, 2011 to include the correct amount in Statement A - Cash Item 22 A and Item 22 B as referenced above.

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 1038 for the fiscal year ended September 30, 2011 was deficient in the following areas:

1. Cash Reconciliation (Form LM-2 Item 22B)

It appears that the cash figure reported in Item 22 is not the cash figures according to the union's books after reconciliation to the bank statements. The instructions for Item 22 state that the union should obtain account balances from its books as reconciled to the balances shown on bank statements. Specifically, the audit showed that in Item 22B 1,834,993. However, the union entered \$1,834,255 in Item 22B instead.

2. Cash Receipts (Form LM-2 Item 36- Dues and Item 49- Total Receipts)

The union inadvertently reported in Form LM-2 Items 36 and 49 the amount of \$2,243,473 and \$3,529,493 respectively, for the audit period. However, the audit findings showed in Item 36 Dues an amount of at least \$2,419,729 and Item 49 Total Receipts an amount of at least \$3,673,841 instead. All of the union's "dues" receipts regardless of the classification should be shown in Item 36, Dues and Agency Fees on the Form LM-2.

3. Cash Receipts (Form LM-2 Item 42- Rents)

Local 1038 inadvertently listed an incorrect amount of rents collected during the audit period. The union entered \$6,600 in Item 42 Rents. However, the audit finding for rent collected was an amount of at least \$12042. The union is required to report the correct amount of rent collected during the audit period.

4. Cash Receipts (Form LM-2 Item 47- On Behalf of Affiliates for Transmittal to Them)

Local 1038 failed to enter the amount of members' payments for health, vision and/ or dental plans in Item 47. The amount members' paid to the union under this category totaled \$364,766. The union inadvertently included this amount in item 48 Other Receipts.

5. Cash Disbursements (Form LM-2 Schedule 11 (All Officers and Disbursements to Officers))

Local 1038 failed to include some reimbursements to officers in Schedule 11 (All Officers and Disbursements to Officers). In the audit period, in Column F disbursements for official business totaled at least \$36,330. However, the amount entered in total disbursements for Column F was \$35,931 resulting in a

difference of \$391. The union under reported disbursements to former President Paul Alexander in column F by \$100. The amount reported in Column F for Alexander was \$20,631. However, the audit findings reflected \$20739. Also, the union under reported disbursements to former Treasurer Dan Antonellis in column F by \$291. The amount reported in Column F for Antonellis was \$3,983 instead of \$4,274 as reflected in the audit findings. In addition, the union did not fully report total disbursements to Shawn Ludwig. The audit findings showed that Ludwig received an additional \$856 which should have been entered in Column G Other Disbursements. As a result, the total amount of officer disbursements in Schedule 11 will increase to \$782,863 instead of \$781,608 reflecting a difference of \$1,255. Such payments appear to have been erroneously reported in Schedules 15 through 20.

6. Cash Disbursements (Form LM-2 Schedule 12 (All Employees and Disbursements to Employees))

Local 1038 underreported total disbursements paid to former Staff Representative Erin Fagan during the audit period. The audit findings showed at least \$808 was disbursed to Fagan for official business. However, the union entered in Column F Disbursements for Official Business only \$366 instead. As a result, total employee disbursements will increase to \$471,702 instead of \$471,260.

Direct disbursements to officers and employees for reimbursement of expenses incurred while conducting union business must be reported in Column F of Schedules 11 and 12 (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 and 12. 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.

7. Cash Disbursements (Form LM-2 Item 64 On Behalf of Individual Members)

Local 1038 failed to include disbursements of at least \$430,235 paid on behalf of members to their health, vision and/ or dental plans during the audit period. The union inadvertently incorporated these payments in Schedule 20 Benefits.

8. Cash Disbursements (Form LM-2 Item 68 Total Disbursements)

Local 1038 inadvertently reported an incorrect amount of total disbursements in Item 68. The union entered \$2,978,305. However, the audit findings showed at least \$3,334,370 as the amount of total disbursements during the audit period.

Due to these errors, Local 1038 must electronically file an amended Form LM-2 for the fiscal year ended September 30, 2011, to correct the deficient items discussed above. You can obtain electronic Form LM-2 and instructions from the OLMS website (www.olms.dol.gov). Also, forward the amended Form LM-2 to my attention via facsimile or email for review of accuracy before filing electronically with our National Office. Before electronically filing, review the report thoroughly to be sure it is complete, accurate, and signed properly with digital signatures. If the amended Form LM-2 is not received in this office by October 15, 2013, this matter will be pursued under a separate case.

The audit disclosed the following other violation(s):

1. Inadequate Bonding

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 those individuals or their predecessors handled during the preceding fiscal year.

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During the onset of the audit, Local 1038's officers and employees were currently bonded for \$250,000. However, the audit findings for fiscal year ending September 30, 2011 reflected that the required bonding coverage should have been \$500,000. However, a review of the union's financials for the fiscal year ending September 30, 2012 reflected that the union's required bond coverage amount was at least \$460,000. Prior to the conclusion of the audit, you were successful in obtaining adequate coverage amount of \$460,000 based on the union's expected dues receipts for 2013. Based on your cooperation in increasing the union's bond coverage to the required amount, this matter is closed.

I want to extend my personal appreciation to you and your staff 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,



Federal Investigator