



September 2, 2011

Mr. Brian Urquhart, Business Manager
Insulators, AFL-CIO
Local Union 26
4348 Culver Road
Rochester, NY 14622

Case Number: [REDACTED]
LM Number: 542-927

Dear Mr. Urquhart:

This office has recently completed an audit of Insulators, Local 26 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 President Kevin Coast, Accountant Ken Pink, and you on August 30, 2011, 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 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 26's 2009 and 2010 records revealed the following recordkeeping violations:

1. General Reimbursed and Credit Card Expenses

Local 26 did not retain adequate documentation for reimbursed expenses and credit card expenses incurred by Business Manager Brian Urquhart and Organizer John Flanagan totaling at least \$6,388 in 2009 and 2010. For example, the union did not retain receipts from the Flamingo Hotel for \$193.90 and \$176.96. In addition, charges using the union's debit or credit card were not always supported with a receipt including gas purchased at Sunoco for \$32.48 and a purchase at Wegmans for \$54.14.

As noted above, labor organizations must retain original receipts, bills, and vouchers for all disbursements. The president and treasurer (or corresponding principal officers) of your union, who are required to sign your union's LM report, are responsible for properly maintaining union records.

2. Meal Expenses

Local 26 did not require officers and employees to submit itemized receipts for meal expenses totaling at least \$374 during the period reviewed. The union must maintain itemized receipts provided by restaurants to officers and employees. These itemized receipts are necessary to determine if such disbursements are for union business purposes and to sufficiently fulfill the recordkeeping requirement of LMRDA Section 206.

Local 26 records of meal expenses did not always include written explanations of union business conducted or the names and titles of the persons incurring the restaurant charges. For example, no itemized meal receipt was provided for a charge at Vic & Anthony's restaurant for \$73.22. Additionally, there was no written explanation for the charge or the names of individuals present. Union records of meal expenses must include written explanations of the union business conducted and the full names and titles of all persons who incurred the restaurant charges. Also, the records retained must identify the names of the restaurants where the officers or employees incurred meal expenses.

3. Lost Wages

Local 26 did not retain adequate documentation for lost wage reimbursement payments to President Kevin Coast totaling at least \$2,297. The union must maintain records in support of lost wage claims that identify each date a lost was incurred, the number of hours lost on each date, the applicable rate of pay, and a description of the union business conducted. The OLMS audit found that Local 26 only retained a handwritten note that Coast received lost wage payments of a specified amount. The union did not identify on a lost wage voucher or similar record the dates lost from the employer, the number of hours lost each day, the individual's rate of pay and the specific union business conducted on all lost wage reimbursement payments.

During the exit interview, I provided a compliance tip sheet, *Union Lost Time Payments*, which contained a sample of an expense voucher Local 26 may use to satisfy this

requirement. The sample identifies the type of information and documentation that the local must maintain for lost wages and other officer expenses.

Based on your assurance that Local 26 will retain adequate documentation in the future, OLMS will take no further enforcement action at this time regarding the above violations.

The proper maintenance of union records is the personal responsibility of the individuals who are required to file Local 26'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. 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 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 who caused the violations, not just the individuals who are responsible for filing the union's LM report.

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-2) filed by Local 26 for the fiscal year ended December 31, 2010, was deficient in the following areas:

1. Disbursements to Officers and Employees

Local 26 did not include reimbursements to officers totaling at least \$4,730 in Schedule 11 (All Officers and Disbursements to Officers). It appears that the local erroneously reported these payments in Schedules 15 through 19.

The union must report in Column F of Schedules 11 and 12 (Disbursements for Official Business) direct disbursements to officers and employees for reimbursement of expenses they incurred while conducting union business. In addition, the union must report in Column F of Schedules 11 and 12 indirect disbursements made to another party (such as a credit card company) for business expenses union personnel incur. However, the union must report in Schedules 15 through 19 indirect disbursements for business expenses union personnel incur for transportation by public carrier (such as an airline) and for temporary lodging expenses while traveling on union business. The union must report in Column G (Other Disbursements) of Schedules 11 and 12 any direct or indirect disbursements to union personnel for expenses not necessary for conducting union business.

2. Failure to Report Receipts/Disbursements

The local union failed to report all receipts received during the period on Statement B (Receipts and Disbursements) of the LM-2 Report. Under Statement B, receipts must be recorded when the money is actually received by the labor organization and similarly,

disbursements must be recorded when the money is actually paid out by the labor organization.

Local 26 failed to report all the receipts received from the various funds towards the rent cost share agreement. During the period the union received at least \$37,838 from outside sources for rent, when only \$24,806 was report in Item 42 of Statement B (Rents). The amount did not appear to be reported elsewhere on the form.

Conversely, disbursements must be recorded when money is actually paid out by Local 26. All disbursements reported on the Form LM-2 for the period should be based on the date when the payment was actually made. Since Statement B reports all cash flowing in and out of the labor organization, "netting" is not permitted. "Netting" is the offsetting of receipts against disbursements and reporting only the balance (net) as either a receipt or disbursement.

3. Cash Reconciliation

It appears that the cash figures reported in Item 25 (Cash) are not the figures according to Local 26's books after reconciliation to the bank statements. The instructions for Item 25 state that the union should obtain account balances from its books as reconciled to the balances shown on bank statements.

Local 26 must file an amended Form LM-2 for the fiscal year ending December 31, 2010, to correct the deficient items discussed above. I explained to you the filing procedures that are available through the OLMS Electronic Forms System (EFS) which can be found on the OLMS website (www.olms.dol.gov). EFS is a web-based system for completing, signing, and submitting your LM-2. The amended Form LM-2 must be electronically filed as soon as possible, but not later than September 30, 2011. Before filing electronically, review the report thoroughly to be sure it is complete and accurate.

Other Issues

1. Expense Policy

As I discussed during the audit and the exit interview, the audit revealed that Local 26 does not have a clear policy regarding the types of expenses personnel may claim for reimbursement and the types of expenses that may be charged to union credit cards. OLMS recommends that unions adopt written guidelines concerning such matters.

2. Personal use of Credit Cards

The audit revealed that Local 26 permits officers to use union credit cards and debit cards to pay for personal expenses. Although officers repaid Local 26 for the personal expenses charged, OLMS does not recommend policies that allow personnel to make personal purchases with union issued credit or debit cards because this may lead to misuse of union

funds. If such personal purchases are made, repayments should be reported on the LM-2 Form on Schedule 14 (Other Receipts).

3. Inventory of Fixed Assets

As discussed with you during the course of the compliance audit and during the exit interview, it is recommended that the union maintain an inventory list of its assets and account for such assets on the LM-2 Report. An inventory list will help you identify, account for, and determine the total value of your union's fixed assets. You agreed to compile such a list. Please provide a copy to OLMS once completed.

I want to extend my personal appreciation to Insulators AFL-CIO, Local 26 and The Bonadio Group 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: Mr. Kevin Coast, President
Ms. Dawn Minemier, CPA, The Bonadio Group
Mr. Kenneth Pink, CPA, The Bonadio Group
Mr. John Flanagan, Organizer
Mr. Jeff Heintz, Vice President