

U.S. Department of Labor

Employment Standards Administration  
Office of Labor-Management Standards  
New York District Office  
201 Varick Street, Room 878  
New York, NY 10014  
(212) 264-3184 / FAX: (212) 264-3190



September 23, 2005

Mr. Renol Lustin, President  
Bakery, Tobacco & Grain, Local 69  
35 North Main Street  
Port Chester, NY 10573

2

Dear Mr. Lustin:

This office has recently completed an audit of Bakery, Tobacco & Grain, Local 69 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, as Amended (LMRDA). As discussed during the exit interview with you on September 23, 2005, 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.

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.

The CAP disclosed a violation of LMRDA section 201(b), because the Labor Organization Annual Report (Form LM-2) filed by Bakery, Tobacco & Grain Local 69 for fiscal year ending December 31, 2004 failed to meet the standards of acceptability.

The following deficient items were identified:

Personal, non-business related expenses, specifically ATM withdrawals for which the union was not timely reimbursed, paid by Local 69 which were not necessary for performing union business were not reported in Column G of Schedule 9. In addition, the corresponding repayments to Local 69 by union officers for such were not reported in item 54 and Schedule 14 (Other Receipts). The name of each individual who made repayments and the total amount repaid by each person should be clearly reported in Schedule 14. Union policies which allow personnel to make personal withdrawals with union debit cards or to otherwise incur personal expenses paid by the union for which the union is later reimbursed are not recommended because they are generally too vulnerable to abuse. Future debit card withdrawals, which were not necessary for performing of union business, should be recorded as a loan.

All direct disbursements to your union's officers and some indirect disbursements made by your organization on behalf of its officers must be included in the amounts reported in item 24. A "direct disbursement" to an officer is a payment made by your organization to an officer in the form of cash, property, goods, services, or other things of value. Direct disbursements to officers and employees for reimbursement of expenses incurred while conducting union business must be reported in Column F of Schedules 9.

Local 69 failed to include some reimbursements to officers and employees in the amounts reported in Schedule 9 (All Officers and Disbursements to Officers) and Schedule 10 (Disbursements to Employees). Such payments appear to have been erroneously reported in Schedules 13 (Office and Administrative Expenses) and Schedule 11 (Benefits).

President Renol Lustin erroneously received a check for \$900 dated December 23, 2004 from Local 69. Mr. Lustin has agreed to refund the local for the erroneous disbursement. Please forward a copy of the repayment check and bank deposit slip to me at the above stated address as soon as payment is made.

I strongly urge Local 69 to adopt clear guidelines regarding what types of expenses officers may charge with union debit cards and what kinds of out-of-pocket expenses may be reimbursed. Our office is certainly available to provide guidance to you regarding the requirements of the law as they would pertain to any policies your union might adopt. If the local chooses to continue with the questionable practice of allowing debit card withdrawals for personal use, I suggest that Local 69 take steps to pre-authorize debit card withdrawal amounts by discussing them at executive board meetings and recording them in meeting minutes or some other internal document.

It will be necessary for Local 69 to file an amended LM-2 report for fiscal year ending December 31, 2004 to correct the deficient items discussed above. The necessary reporting forms and instructions are enclosed for your use. The amended report should be submitted to this office at the above address as soon as possible, but no later than October 31, 2005. Before mailing, review the reports thoroughly to be sure they are complete, accurate, and signed properly with original signatures.

I strongly recommend that you make sure that this letter and the compliance assistance materials that were provided to you are passed on to yours and Mr. Maldonado's successors at whatever time you may leave office

I want to extend my personal appreciation for your cooperation and courtesy during this compliance audit. If we can be of any assistance in the future, please do not hesitate to call.

Sincerely,



Investigator

cc: M. Enrique Maldonado, Treasurer