



September 8, 2011

Stephanie Olivera, President  
Communication Workers of America, Local 9423  
2015 Naglee Avenue  
San Jose, CA 95128

Case Number: [REDACTED]  
LM Number: 022-297

Dear Stephanie Olivera:

This office has recently completed an audit of CWA Local 9430 under the Compliance Audit Program (CAP) to determine the local's compliance with the provisions of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA). As discussed during the exit interview with you, Treasurer Eric Lindberg, and Executive Vice President Dan Rodriguez on September 7, 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 9430's 2010 records revealed the following recordkeeping violations:

1. Local 9430 disposed of executive board and general meeting minutes for the last several years while preparing for its merge with CWA Local 9423, of San Jose. Meeting minutes must be maintained because they include authorization for expenses and officer salaries.

2. Local 9430 did not retain adequate documentation for various expenses including rent and travel incurred by union officers totaling at least \$3,526.98.

The proper maintenance of union records is the personal responsibility of the individuals who are required to file Local 9430'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-3 filed by Local 9430 for the fiscal year ended September 30, 2010, was deficient in the following areas:

1. Local 9430 was delinquent in filing their Labor Organization Annual Report Form LM-3 for the fiscal year ended September 30, 2010 and terminal report.

Local 9430 has now filed these reports.

2. The audit disclosed a violation of LMRDA Section 201(a), which requires that a union submit a copy of its revised constitution and by-laws with its LM report when it makes changes to its constitution and by-laws. Local 9430 amended its by-laws in 1984, and did not file a copy with its LM report for that year.

Local 9430 has now filed a copy of its constitution and by-laws.

I want to extend my personal appreciation to CWA Local 9430 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: Ellie Benner, Vice President