

U.S. Department of Labor

Employment Standards Administration
Office of Labor-Management Standards
Nashville District Office
233 Cumberland Bend Drive
Room 110
Nashville, TN 37228
(615)736-5906 Fax: (615)736-7148



March 5, 2008

Mr. Michael Bearden, President
Electrical Workers IBEW, AFL-CIO
LU 429
2001 Elm Hill Pike
Nashville, TN 37210

LM File Number 025-529
Case Number: [REDACTED]

Dear Mr. Bearden:

This office has recently completed an audit of IBEW Local 429 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, Robert Emery Jr., and Debra Dennis on December 17, 2007, 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:

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.

1. Meal Expenses

Local 429 did not require officers to submit all itemized receipts. Meal receipts were submitted for only those meals that exceeded the \$50.00 per day allowance, but the officers did not submit receipts for those meals that were within the daily allowance. Article VII, Section 7 of the local's bylaws requires that in the event expenses exceed an average of \$50.00 per day, all receipts shall be presented. 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 429 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, a meal receipt for \$14.77 which did not include the name of the restaurant, and a receipt from Longhorn Restaurant, which was dated August 25, 2006 for \$27.56, did not reflect the purpose of the meal... 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.

2. Information not Recorded in Meeting Minutes

During the audit, you and Mr. Emery advised OLMS that the Executive Board and the Local Union authorized Bearden to attend two seminars in Little Rock, AR, which were held in March and May 2006. Article XVII, Section 1(g) and Article

XVIII of the IBEW Constitution require disbursements, for the exception of rent, salaries and payments due to the international, to be authorized by the local union. However, the minutes of the meeting do not contain any reference to those issues. Minutes of all membership or executive board meetings must report any disbursement authorizations made at those meetings.

3. Lack of Salary Authorization

Local 429 did not maintain records to verify that the salaries reported in Schedule 12 (Disbursements to Employees) of the LM-2 was the authorized amount and therefore was correctly reported. The union must keep a record, such as meeting minutes, to show the current salary authorized by the entity or individual in the union with the authority to establish salaries.

Based on your assurance that Local 429 will retain adequate documentation in the future, OLMS will take no further enforcement action at this time regarding the above violations.

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 429 for fiscal year ending December 31, 2006 was deficient in the area of disbursements to officers. Local 429 did not include some reimbursements to officers totaling at least \$8, 859.88 in Schedule 11 (All Officers and Disbursements to Officers). It appears that the local erroneously reported these payments elsewhere.

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.

I am not requiring that Local 429 file an amended LM report for 2006 to correct the deficient items, but Local 429 has agreed to properly report the deficient items on all future reports it files with OLMS.

Other Violations

The audit disclosed 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. The audit revealed that Local 429's officers and employees were not bonded for the minimum amount required at the time of the audit. However, the union obtained adequate bonding coverage and provided evidence of this to OLMS after the audit. As a result, OLMS will take no further enforcement action regarding this issue.

Other Issues

1. One Signature on Checks

The audit disclosed that only one signature was present on numerous checks, particularly, checks written to transfer monies from the General Fund account to the Financial Secretary account. Article XVII, Section 1(g) of the IBEW Constitution requires that all checks to be countersigned by the President and Treasurer. As a financial safeguard, OLMS recommends all checks should be countersigned by two officers. The countersignature requirement is an effective internal control of union funds. Its purpose is to attest to the authenticity of a completed document already signed.

2. Personal use of Credit Cards

During the opening interview with you and Mrs. Dennis, it was revealed that there were instances in which officers charged personal expenses to the union's credit card, but the officers promptly reimbursed the local. On March 3, 2008, Mr. Emery revealed that the officers inadvertently made personal charges to the union's card. Mr. Emery also added that Local 429 does not permit personal expenses charged to the union's credit card. Although officers and employees promptly repaid Local 429 for the personal expenses charged, OLMS does not recommend personnel to make personal purchases with union credit cards because this may lead to misuse of union funds.

3. Dating Timesheets

The audit revealed that the approving officer signed the timesheets for the clerical staff, but did not include the date in which he signed the document. To ensure the authenticity of the timesheet, it is recommended that the approving officer annotate the date in which he signed the document.

I want to extend my personal appreciation to IBEW Local 429 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: Robert Emery, Jr., Business Agent/Financial Secretary