

U.S. Department of Labor

Employment Standards Administration
Office of Labor-Management Standards
Birmingham Resident Office
950 22nd Street North
Room 601
Birmingham, AL 35203
(205)731-0239 Fax: (205)731-0305



April 20, 2009

Mr. Jerome Peterson, Business Manager
Laborers
Local 559
1229 22nd Street North
Birmingham. Al 35234

LM File Number: 006-874
Case Number: [REDACTED]

Dear Mr. Peterson:

This office has recently completed an audit of Local 559 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, President John Twymon, Secretary-Treasurer Kennard Cumbie, Office Manager Anita Otey, and Union Accountant James "Rick" Galloway on April 16, 2009, 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 559's 2008 records revealed the following recordkeeping violation:

Meal Expenses

Local 559 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 dated 01-16-08 from Tuscaloosa, AL in the amount of \$335.61 was present in the union files and the meal was paid for with union funds. The meal receipt (or attached document) did not have the names of the attendees at the meal and the nature of union business discussed during 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.

Based on your assurance that Local 559 will retain adequate documentation in the future, OLMS will take no further enforcement action at this time regarding the above violation.

Reporting Violations

The audit disclosed violations 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 559 for fiscal year ending June 30, 2008, was deficient in the following areas:

1. Failure to Itemize Disbursement or Receipt

Local 559 did not properly report several "major" transaction(s) in Schedule 17, Contributions, Gifts, and Grants. A "major" transaction includes any individual

transaction of \$5,000 or more or total transactions to or from any single entity or individual that aggregate to \$5,000 or more during the reporting period and which the local cannot properly report elsewhere in Statement B. For example the audit found that Local 559 spent \$13,395 in December 2007 at Food World Grocers, Birmingham, AL for Christmas Gifts to members. The local inappropriately reported some of this amount in Schedule 18, General Overhead.

2. Disbursements to Officers and Employees

Local 559 did not include reimbursements to officers and employees totaling at least \$10,915.58 in Schedule 11 (All Officers and Disbursements to Officers) and Schedule 12 (Disbursements to Employees). Investigation revealed Business Manager Peterson had \$6,711.23 in disbursements, Secretary-Treasurer Cumbie had \$3,465.86, and Office Manager Otey had \$738.49.

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.

3. Withholding Taxes and Other Payroll Deductions

Item 67(a) does not agree with the sum of the deductions reported on Line 8 in Schedule 11 and on Line 9 in Schedule 12. The amount reported is \$69,114, however, the actual sum of deduction is \$69,144. The LM-2 instructions for Item 67(a) states to enter the total amount of withholding taxes and all other payroll deductions during the reporting period.

4. Sufficient Details Required on LM-2 Report

Verification of the union's bonding revealed the union is bonded for \$300,000, however; Line 14 was incorrectly annotated with \$155,000. Line 21b was listed as

"4&" when in fact it should have been \$4. Schedule 20 does not contain adequate explanations; for example to whom payment was made.

Local 559 must file an amended Form LM-2 for fiscal year ending June 30, 2008, to correct the deficient items discussed above. I explained to you the filing procedures and the availability of filing software on the OLMS website (www.olms.dol.gov). The amended Form LM-2 must be electronically filed as soon as possible, but not later than May 22, 2008. Before filing, review the report thoroughly to be sure it is complete and accurate, and properly signed with electronic signatures.

Other Issue

Use of Signature Stamp

During the audit, Officer Manager Anita Otey advised that Local 559 had used a signature stamp for Business Manager Jerome Peterson to sign some union checks. Peterson indicated the practice was for convenience since both he and the Secretary/Treasurer travel frequently and Office Manager Otey reviews the checks before they are issued. Article IV, Section 4 of Local 559's Constitution requires that checks be signed by the president and treasurer. The two signature requirement is an effective internal control of union funds. Its purpose is to attest to the authenticity of a completed document already signed. However, the use of a signature stamp for the second signer does not attest to the authenticity of the completed check, and negates the purpose of the two signature requirement. OLMS recommends that Local 559 review these procedures to improve internal control of union funds.

I want to extend my personal appreciation to Local 559 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: President John Twymon