

U.S. Department of Labor

Office of Labor-Management Standards
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April 30, 2010

Mr. Kemp Kitzmiller, Financial Secretary
United Auto Workers
Local 149
2625 Papermill Road
Winchester, VA 22601-4228

LM File Number 031-603
Case Number: [REDACTED]

Dear Mr. Kitzmiller:

This office has recently completed an audit of United Auto Workers (UAW) Local 149 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 and Local President Bert Justice on April 27, 2010, 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 the following violations:

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 149's 2007 records revealed the following recordkeeping violations:

1. Disposition of Property

Local 149 did not maintain an inventory of t-shirts, jackets, and other property it purchased, sold, or gave away. The union must report the value of any union property on hand at the beginning and end of each year in Item 30 (Other Assets) of the LM-3. The union must retain an inventory or similar record of property on hand to verify, clarify, and explain the information that must be reported in Item 30.

The union must record in at least one record the date and amount received from each sale of union t-shirts, jackets, and other items.

2. Union Hall Rentals

The audit revealed that the union rented its hall to local members and others in the community for meetings and events. However, the union documentation regarding the hall rental was inadequate. There were not sufficient records to show who rented the hall, when the hall was rented, the amount of money the renters paid, and whether they were refunded their security deposits. Union receipts records must include an adequate identification of all money the union receives. The records should show the date and amount received, the source of the money, and the date of the hall rental. The union's records should also indicate whether the renter received the deposit back and the amount he or she received.

Based on your assurance that Local 149 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-3) filed by Local 149 for fiscal year ending December 31, 2007 was deficient in that:

1. Disbursements to Officers

Local 149 did not include some payments to an officer in the amount reported in Item 24 (All Officers and Disbursements to Officers). It appears the union erroneously reported these payments in another disbursement category.

The union must report most direct disbursements to Local 149 officers and some indirect disbursements made on behalf of its officers in Item 24. A "direct disbursement" to an officer is a payment made to an officer in the form of cash, property, goods, services, or other things of value. See the instructions for Item 24 for a discussion of certain direct disbursements to officers that do not have to be reported in Item 24. An "indirect disbursement" to an officer is a payment to another party (including a credit card company) for cash, property, goods, services, or other things of value received by or on behalf of an officer. However, indirect disbursements for temporary lodging (such as a union check issued to a hotel) or for transportation by a public carrier (such as an airline) for an officer traveling on union business should be reported in Item 48 (Office and Administrative Expense).

2. Failure to File Bylaws

The audit disclosed a violation of LMRDA Section 201(a), which requires that a union submit a copy of its revised bylaws with its LM report when it makes changes to its bylaws. Local 149 amended its bylaws in 1998, but did not file a copy with its LM report for that year. Local 149 has now filed a copy of its bylaws.

I am not requiring that Local 149 file an amended LM report for 2007 to correct the deficient items, but Local 149 has agreed to properly report the deficient items on all future reports it files with OLMS.

Other Issues

The audit disclosed the following other issue:

Local 149 paid one of its retired officers for time he spent conducting union business. The union's bylaws state: "the local shall pay a representative or member lost time only when that representative or member is performing necessary duties for and on behalf of the local union during a time for which he/she would otherwise be compensated by the employer." Since the officer was retired, he did not lose any time for which he would have been compensated by the employer. We strongly recommend that the union follow its bylaws with regard to the disbursement of union funds.

I want to extend my personal appreciation to UAW Local 149 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: Bert Justice, President