

U.S. Department of Labor

Employment Standards Administration  
Office of Labor-Management Standards  
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September 20, 2005

Peter Behrensprung, President  
UAW Local 833  
5425 Superior Avenue  
Sheboygan, WI 53083

Re: *2*

Dear Mr. Behrensprung:

This office has recently completed an audit of UAW Local 833 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, Pam Block, Ellen Schleicher and David Bergene on September 13, 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.

Record Keeping Violations

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 following record keeping violations were revealed during the audit of Local 833's 2004 records:

- (1) Local 833 failed to retain adequate documentation for reimbursed officer and employee expenses, for payments to vendors, and various disbursements for retiree activities. Several examples are noted below:
  - You failed to retain adequate documentation for lodging and reimbursed mileage expenses
  - Recording Secretary Schleicher failed to retain documentation for reimbursements for office supplies.
  - Vice President Harmelink failed to retain adequate documentation for reimbursement to him for the purchase of wreaths.
  - Local 833 failed to keep invoices related to refrigeration repairs totaling at least \$350.

- Receipts submitted by 760 for retiree-related activity expenses do not identify the purpose of the expenses and do not identify the names of those who were present for meal expenses.
- Receipts that were retained for the retiree-paid lunches (during union mailings) do not identify the names of those who were present for the meal expenses.
- Officers and employees who were reimbursed for food and grocery items did not maintain records that identify the date or type of union function for which the items were purchased.
- The vouchers retained for many of the reimbursed expenses incurred by officers and employees do not identify the business purpose of the expenses claimed.

The date, amount, and business purpose of every expense must be recorded on at least one union record. In addition, the names of individuals present for meal expenses paid for by the union and the locations (names of restaurants) where meal expenses were incurred must be recorded in at least one union record.

With respect to documentation retained in support of specific disbursements, the record retention requirement includes not only the retention of original bills, invoices, receipts, and vouchers, but also additional documentation, if necessary, showing the nature of the union business requiring the disbursement, the goods or services received, and all the recipients of the goods or services. In most instances, this documentation requirement can be most easily satisfied with a sufficiently descriptive receipt. If a receipt is not sufficiently descriptive, a note can be written on it providing the additional information. An exception may be made only in those cases where 1) other equally descriptive documentation has been maintained, and 2) there is evidence of actual oversight and control over disbursements.

- (2) Local 833 failed to retain an inventory of hats, jackets, and other union apparel which was purchased and sold or given away to union members. Records must be retained which account for all union property. In the case of union hats, jackets and other items sold to members, the date and amount received from every sale must be recorded in at least one record.

Similarly, Local 833 failed to retain an inventory of door prizes and raffles prizes that were either purchased or donated and later given away at membership meetings or other union-sponsored functions. Local 833 must retain records that account for all union property to verify, explain, or clarify information that is required to be reported on the Labor Organization Annual Reports (Form LM-2) filed by your union.

- (3) Local 833 failed to record in its records the source and purpose of some receipts of money from the sale of raffle tickets, dinner tickets, donations, hall rental, and bar sales. Union receipts records must include an adequate identification of each receipt of money. The records should show the exact date that the money was received, the identity of the source of the money, and the individual amount received from each source. In the case of monies received from individuals who rent the hall and pay for bar expenses, receipts records should the date of the event or function and the name of the individual from which the money was received.

In the case of receipts from the sale of dinner and raffle tickets sold by officers and members records must identify (at a minimum) the date, purpose, and identity of each person who sold tickets, and the amount received from each ticket seller. Local 833 should maintain records to show that ticket sellers have accounted for the number of tickets provided to them by returning any unsold tickets plus money equivalent to the number of tickets sold. During the exit interview, I provided you with several samples of records that would satisfy this recordkeeping requirement.

- (4) Records identifying the dates that Financial Secretary Block and Recording Secretary Schleicher used paid vacation were not retained. Ms. Block stated that such information was recorded on calendars in Ms. Schleicher's office, but that the calendars were not retained with the records for 2004. Section 206 of the LMRDA requires that any records which will provide information to verify, clarify, or explain information required to be reported on LM-2 reports filed by unions be maintained for not less than five years. These records support salary payments to officers reported on the LM-2 report, and must be retained.

Local 833's records will be reviewed by this office again within the next three years to ensure that the above record keeping violations have been corrected. As agreed, provided that Local 833 maintains adequate documentation for its disbursements in the future, no additional enforcement action will be taken regarding these violations.

#### Reporting Violations

The CAP disclosed a violation of LMRDA section 201(b), because the Labor Organization Annual Report (Form LM-2) filed by Local 833 for fiscal year ending December 31, 2004 was deficient in the following areas:

- (1) Item 13 (Acquire any goods or property in any manner other than by purchase or dispose of any goods or property in any manner other than by sale) should have been answered "Yes" instead of "No," because the union both acquired and disposed of goods other than by purchase and sale. Items for many of the raffles, including the Safe Place for Newborns Raffle and the Conservation Club raffle, were donated items that were later give away as prizes in the raffles. The type and value of any property received must be identified in the additional information section of the LM report with the identity of the donor of such property.

The local gave away various purchased items to members during the year, including union apparel, gift certificates, hams, and turkeys. The value of these items totaled over \$2,000. Additional items were given away at other union sponsored functions, including door prizes at the conservation club banquet, and prizes at the annual golf outing. The conservation committee gave away over 180 various door prizes valued at approximately \$40 each at the conservation banquet. The value of the prizes given away at the golf outing is unknown because the local failed to keep an inventory of these items.

In the case of items distributed to a large number of members, the names of all members receiving such items need not be reported in the additional information section. Instead, the union may simply identify the type and value of property given away and identify the number of members that received each type of item.

- (2) The amounts reported in Item 30(A) (Fixed Assets at the beginning of the year) (\$680,315) and Item 30(B) (Fixed Assets at the end of the year) (\$777,787) appear to be incorrect. The amounts reported indicate that fixed assets increased by \$97,472 during the year. However, Schedule 7 (purchase of investments and assets) reports that Local 833 did not purchase any assets during the fiscal year that would add value to the assets of the local.

During the audit, Financial Secretary Pam Block informed me that the local had a professional company come in and re-evaluate the local's fixed assets. A copy of the company's report on the local's assets was provided to me during the interview at the beginning of the audit, and it appears the local had been carrying its assets at a value that was lower than the value deemed appropriate by the professional evaluation company. An explanation for the differences in Items 30(A) and 30(B), without the purchase of additional assets, should be provided in Item 75 (Additional Information).

- (3) Local 833 failed to include some payments to officers and employees for salaries and expenses in the amounts reported in Schedule 9 (All Officers and Disbursements to Officers) and Schedule 10 (Disbursements to Employees).

Direct disbursements to officers and employees for reimbursement of expenses incurred while conducting union business must be reported in Column F of Schedules 9 and 10 (Disbursements for Official Business). In addition, indirect disbursements made to another party (such as a credit card company) for business expenses incurred by union personnel must also be reported in Column F of Schedules 9 and 10. However, indirect disbursements for business expenses incurred for transportation by a public carrier (such as an airline) and for temporary lodging expenses incurred while traveling on union business must be reported in Schedule 13 (Office and Administrative Expenses). Any direct or indirect disbursements to union personnel for expenses not necessary for conducting union business must be reported in Column G of Schedules 9 and 10 (Other Disbursements).

Financial Secretary Block and Recording Secretary Schleicher are employed full-time by Local 833. Koehler company issues payroll checks to those individuals for their salaries and Local 833 reimburses the company for those payments. Similarly, Koehler Company also pays amounts to officers and stewards for time spent working on union business, and Local 833 reimburses the company for those expenses. The payments from Local 833 to the company are considered indirect disbursements to officers and employees which must be reported in Schedules 9 and 10. These payments appear to have been incorrectly reported in Schedule 15 as, "Lost Time Reimbursements/Koehler \$181,128."

In addition, Local 833 failed to report in Schedules 9 and 10 some payments to members who perform work at the union hall and reimbursements to officers and employees for raffle/door prizes and supplies (food for union meetings).

- (4) Local 833 incorrectly reported payments to vendors for door prizes in Schedule 12 (Contributions, Gifts, and Grants). These disbursements should be reported in Schedule 15 (Other Disbursements). However, as previously noted, expense reimbursement payments to members for prizes must be reported in Schedule 10.
- (5) Local 833 erroneously reported payments for refreshment expenses related to membership and staff meetings in Schedule 13 (Office and Administrative Expense). Disbursements for ordinary office expenses such as rent, utilities, office supplies, postage, and insurance should be reported in Schedule 13. Refreshment and other meeting expenses related to membership meetings should be reported in Item 15 (Other Disbursements).
- (6) Item 15 (Other Disbursements) reports disbursements of \$6,679 for "CD Reduction." As noted on page seven of the LM-2 instructions, the LM-2 report is required to be prepared using the cash basis of accounting. Transactions that do not involve an actual receipt or disbursement of cash should not be reported.

The cash value of the certificates of deposit (CDs) are reflected in Item 25 (A) (cash at the start of the reporting period) and Item 25(B) (cash at the end of the reporting period). During the audit, Financial Secretary Block explained that for fiscal year ending 12/31/03, she reported the market value of the CDs in Item 25(B). At the beginning of the fiscal year ending 12/31/04, Block reported the value of the CDs at their cost (not market value). The asset totals reported on the LM-2 report at the end of one year should be reported as the asset totals for the beginning of the following year. In the case of certificates of deposit which may have a fluctuating market value, the union should simply use the cost or face value (whichever is lower) of the certificate in calculating its total cash balances to be reported on the LM-2 report. The explanation of the change in accounting for the certificates of deposit should be explained in Item 75 (Additional Information).

It will be necessary for Local 833 to file amended LM-2 report for 2204 to correct the deficient items discussed above. The amended report should be submitted to this office at the above address as soon as possible, but no later than October 11, 2005. Before mailing, review the reports thoroughly to be sure they are complete, accurate, and signed properly with original signatures.

#### Additional Issues

- (1) During 2004, Local 833 gave away many prizes of substantial value, including the raffle prize packages that were given away at the Conservation Club Banquet. You may wish to review IRS Gaming Publication for Tax Exempt Organizations (Publication 3079) and contact the IRS concerning tax liabilities for these prizes.

(2) Local 833 owns and operates a banquet hall and bar within their union hall. The local buys merchandise to run this facility and also pays employees to work at the facility. Local 833 rents out the facility to members as well as the general public and charges them for the drinks they provide and a user fee for the rental. The local also uses the bar for membership activities including meetings and parties, at which they give away beer and soda and charge reduced prices for drinks to their members. You advised that Local 833 only takes an inventory of the bar supplies once per year and maintains records at events to determine the supplies used at each event (for billing purposes), but does not maintain records of bar supplies given away or sold at reduced prices. Financial Secretary Block advised that Local 833 has a sales and use tax permit issued by the Wisconsin Department of Revenue (WDR) and that Local 833 pays sales and use taxes to the State of Wisconsin. Ms. Block advised me that Local 833 estimates the use taxes rather than calculating the actual taxes based on records identifying the bar supplies given away. It appears that Local 833 may not be properly following WDR record keeping requirements concerning the identification of items consumed that are subject to use tax. You may want to refer to WDR Publication 201 (General Sales Tax) and Publication 214 (Use Tax) or contact the WDR for further information (Sales10@dor.state.wi.us). As noted during the exit interview, I strongly recommend that Local 833 establish adequate internal controls concerning the operation of the bar to ensure that all monies and property are properly accounted for and handled. Note that Section 601 of the LMRDA grants the Department of Labor the authority to conduct audits and investigations and provides that the Department may report to interested persons or officials any matter deemed to be appropriate as a result of such an investigation.

I want to extend my personal appreciation to you and your entire staff 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: David Bergene, Vice President  
Pam Block, Financial Secretary  
Ellen Schleicher, Recording Secretary  
Larry Klein, Trustee  
Julie Schmidt, Trustee