

U.S. Department of Labor

Employment Standards Administration
Office of Labor-Management Standards
Boston District Office
Room E-365
JFK Federal Building
Boston, MA 02203
(617)624-6690 Fax: (617)624-6606



October 27, 2008

Mr. John Riley, Local President
APWU
Local 458
PO Box 6800
Scarborough, ME 04070-6800

LM File Number 506-124
Case Number: [REDACTED]

Dear Mr. Riley:

This office has recently completed an audit of APWU Local 458 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 Treasurer William Gilchrest on October 17, 2008, 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, reporting violations, and other issues.

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 458's 2007 records revealed the following recordkeeping violations:

1. General Reimbursed and Credit Card Expenses

Local 458 did not retain adequate documentation for reimbursed expenses and credit card expenses incurred by union officers and employees totaling at least \$270. For example, documentation for union officers and employees' meals incurred while attending union conferences, conventions, and other authorized labor training were not maintained by the local.

As previously noted above, labor organizations must retain original receipts, bills, and vouchers for all disbursements. The president and treasurer (or corresponding principal officers) of your union, who are required to sign your union's LM report, are responsible for properly maintaining union records.

2. Meal Expenses

Local 458 did not require officers and employees to submit itemized receipts for meal expenses totaling at least \$4,475. 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 458 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, meal expenses incurred by union officers and employees while in attendance at the APWU National Convention and while on

other official union business did not include written explanations. 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.

3. Other Expenses

Local 458 did not retain adequate documentation for at least \$1,350 in local expenses during the audit period. These expenses included: postage, per capita payments, accounting software, and other local office and administrative expenses.

As previously noted above, labor organizations must retain adequate documentation to sufficiently fulfill the recordkeeping requirements of LMRDA Section 206.

4. Other Receipts

Local 458 did not retain documentation for local receipts totaling at least \$1,200 during the audit period. These receipts included the following: t-shirt sales, dues received from retirees, repayment of union officers or employees' personal expenses charged to local, repayment of overpayments received by union officers or employees, reimbursements to the local from APWU of Maine for convention costs, and other receipts.

As previously noted above, labor organizations must retain at least one record showing the date, amount, purpose, and source of money received. The president and treasurer (or corresponding principal officers) of your union, who are required to sign your union's LM report, are responsible for properly maintaining union records.

5. Disposition of Property

Local 458 did not maintain an inventory of hats, 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 hats, jackets and other items.

6. Receipt Dates not Recorded

Entries in Local 458's receipts journal reflect the date the union deposited money, but not the date money was received. Union receipts records must show the date of receipt. The date of receipt is required to verify, explain, or clarify amounts required to be reported in Statement B (Receipts and Disbursements) of the LM-3.

The LM-3 instructions for Statement B state that the labor organization must record receipts when it actually receives money and disbursements when it actually pays out money. Failure to record the date money was received could result in the union reporting some receipts for a different year than when it actually received them.

7. Failure to Maintain Bank Statements

Local 458 did not maintain three months of bank statements for the fiscal year ending March 31, 2007. The union must maintain all bank statements.

Based on your assurance that Local 458 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 458 for fiscal year ending March 31, 2007, was deficient in the following areas:

1. Disbursements to Officers

Local 458 did not include some reimbursements to officers totaling at least \$3,300 in the amounts reported Item 24 (All Officers and Disbursements to Officers). It appears the union erroneously reported these payments in Item 54 (Other Disbursements).

The union must report most direct disbursements to Local 458 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. Cash Reconciliation

It appears that the cash figures reported in Item 25 are not the cash figures according to the union's books after reconciliation to the bank statements. The instructions for Item 25 state that the union should obtain account balances from its books as reconciled to the balances shown on bank statements.

3. Failure to Properly Categorize Disbursements

Local 458 did not correctly categorize at least \$14,000 in office and administrative payments in Item 48 (Office and Administrative Expenses) and \$5,290 in fixed asset payments in Item 52 (Purchase of Investments and Fixed Assets). It appears as though the local erroneously reported these disbursements in Item 54 (Other Disbursements). The instructions for Item 48 state the total amount of ordinary office and administrative expenses, for example, rent, utilities, office supplies, postage, subscriptions, fidelity bond premiums, etc. must be entered in Item 48. The instructions for Item 52 state the total disbursements for all investments and fixed assets purchased by your organization during the fiscal year must be entered in Item 52.

I am not requiring that Local 458 file an amended LM report for 2007 to correct the deficient items, but Local 458 has agreed to properly report the deficient items on all future reports it files with OLMS.

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Other Issues

1. LM-30 Report

As discussed during the exit interview with Local 458, the audit revealed that Local 458 President and Clerk Craft Director must begin filing an LM-30 report under the Final Rule for fiscal years beginning August 16, 2007 and thereafter. Local 458 President and Clerk Craft Director receive more than 250 hours a year for work done on the union's behalf paid by the United States Postal Service as part of the union's contract with their employer. Local 458's President and Clerk Craft Director must file an LM-30 report within ninety days of the fiscal year ending March 31, 2009 and each fiscal year thereafter.

I want to extend my personal appreciation to APWU Local 458 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,

Mark Letizi
District Director

cc: William Gilchrest, Local Treasurer