

**U.S. Department of Labor**

Employment Standards Administration  
Office of Labor-Management Standards  
Buffalo District Office  
130 South Elmwood, Suite 510  
Buffalo, NY 14202  
(716)842-2900 / FAX: (716)842-2901



August 20, 2008

Gerald Couser, Business Manager/Secretary-Treasurer  
Boilermakers, AFL-CIO  
Local Union 197  
890 Third Street  
Albany, NY 12206-1626

LM File Number: 025-597

Case Number: [REDACTED]

Dear Mr Couser:

This office has recently completed an audit of the Boilermakers Local 197 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 on August 15, 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.

Recordkeeping Violation

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 197's 2007/2008 records revealed the following recordkeeping violation:

1 Credit Card Expenses

Local 197 did not retain adequate documentation for credit card expenses incurred by union officers and employees totaling at least \$5,355. For example, Local 197 union officers incurred \$4,090 in lodging charges but failed to retain receipts. They also incurred \$435 in fuel charges but did not retain receipts. Additionally, the officers had \$830 in airfare charges without retaining receipts.

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 Failure to Record Receipts

Local 197 did not record in its receipts records some cash dues payments received from members totaling at least \$2,923. When members would pay cash for dues at the union office or on occasion at the job site they usually did not want a receipt. The monies can be accounted for on deposit slips and member dues log but not by individual receipts. Union receipts records must include an adequate identification of all money the union receives. The records should show the date and amount received, and the source of the money.

OLMS will take no further enforcement action at this time regarding the above violation as Local 197 has been terminated.

Reporting Violation

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 197 for fiscal year ending June 30, 2007, was deficient in that:

1 Automobile Expenses

Local 197 did not include in the amounts reported in Schedule 11 (All Officers and Disbursements to Officers) disbursements for the operation and maintenance of union automobile totaling at least \$5,699. Local 197 listed the auto lease as a general overhead expense rather than reporting its costs in Schedule 11.

The LM-2 instructions provide two methods for reporting automobile-related expenses. The union must report in Schedules 11 and 12 direct and indirect disbursements for the operation and maintenance of union owned and leased vehicles and the operation and

maintenance of vehicles owned by union personnel (including gasoline, repairs, and insurance). The union may divide the expenses and report them in Columns F and G based on miles driven for union business (supported by mileage logs) compared with miles driven for personal use.

Alternatively, rather than allocating the expenses between Columns F and G, if 50 percent or more of an officer's or an employee's use of a vehicle was for official business, the union may report all of the expenses relative to the vehicle assigned to the officer or employee in Column F of Schedule 11 or 12 with an explanation in Item 69 (Additional Information) that the officer or employee used the vehicle part of the time for personal business. Similarly, if a vehicle assigned to an officer or employee was used less than 50 percent of the time for business, all of the expenses relative to that vehicle may be reported in Column G with an explanation in Item 69 that the officer or employee used the vehicle partly for official business.

## 2. Failure to Itemize Disbursement or Receipt

Local 197 did not properly report "major" transactions in Schedules 18 and 19. 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. The audit found on Schedule 19 (Union Administration) was reported as a \$8,940 rent payments "total itemized transaction" making it appear as a one time, end of year payment. The rent payments were made monthly therefore the \$8,940 should have also been reported as a "total non-itemized transaction" as well.

## 3. General Reporting Errors

Local 197 reported cash receipts of \$191,590 in Item 36 (Dues and Agency Fees) and \$33,043 in Item 37 (Per Capita Tax). All cash received from members dues should be reported in Item 36. Item 37 is only to be used by an intermediate or parent body for the per capita tax payments they receive.

I am not requiring that Local 197 file an amended LM report for 2007 to correct the deficient items, but Local 197 has agreed to properly report the deficient items on its June 30, 2008 report.

## Other Violation

### Delinquent Terminal Report

Local 197 was terminated on June 30, 2008. Local 197, along with Local 175 in Oswego, NY, was merged into Boilermakers Local 5, Floral Park, NY (LM# 058-507) on July 1, 2008. The terminal financial report must be submitted within 30 days of the date of termination.

As of this date, the terminal LM-2 has not been filed. Local 197 agreed to file it as soon as possible but not later than September 15,2008.

I want to extend my personal appreciation to Local 197, for their 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 including those of Local 5, which your local merged into. If we can be of any additional assistance, please do not hesitate to call.

Sincerely,



Investigator

cc: Kirk Gendron, Local 197 President  
Robert Pandori, Local 197 Vice President  
Thomas Klein, Local 5 Business Manager/Secretary-Treasurer  
Thomas Cook, Local 5 President