

U.S. Department of Labor

Employment Standards Administration
Office of Labor-Management Standards
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April 3, 2008

Mr. Kevin Meyer, President
Iron Workers AFL-CIO Local 665
840 Meadowview Lane, #41
Lodi, WI 53555

LM File Number: 014-754
Case Number: [REDACTED]

Dear Mr. Meyer:

This office has recently completed an audit of Iron Workers Local 665 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 Financial Secretary-Treasurer Gerald Kertz on March 11, 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 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 665's 2007 records revealed the following recordkeeping violations:

1. Failure to Record Receipts

Local 665 did not record in its receipts records received from Wachovia Securities money market account during the audit year. 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.

2. Receipt Dates not Recorded

Entries in Local 665's checks stubs and deposit slips reflect the date money was deposited, 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 reporting some receipts for a different year than the one in which they were received.

3. Disbursements to Vendors and Expense Reimbursements to Officers

Local 665 did not retain adequate documentation for disbursements totaling at least \$575. For example, supporting documentation was not retained for a \$500 disbursement on September 8, 2006 to CPA Thane Newman for the union's annual audit. Local 665 also did not retain adequate documentation for reimbursed expenses incurred by Financial Secretary-Treasurer Kertz, member James DePagter, and Executive Board Member Sherman Bradley totaling at least \$445. 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. As 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 Labor Organization Annual Report (Form LM-3), are responsible for properly maintaining union records.

Based on your assurance that Local 665 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 665 for fiscal year ending June 30, 2007, was deficient in the following areas:

1. Cash Reconciliation

Local 665's cash figures for the reporting period do not reconcile. Specifically, cash at the start of the reporting period (Item 25(A)) plus total receipts (Item 44) minus total disbursements (Item 55) does not equal cash at the end of the reporting period (Item 25(B)). Either one or more of the reported figures in these items are inaccurate and should be corrected or the cash shortage or overage must be explained in Item 56 (additional information). See worktable below:

	\$1,435	Cash - Start of Reporting Period (Item 25(A))
+	\$52,672	Total Receipts
=	\$54,107	Total
-	\$54,992	Total Disbursements (Item 55)
=	(\$885)	Ending Cash Computation
vs.	\$1,815	Cash - End of Reporting Period (Item 25(B))
	\$2,700	Difference

2. Disbursements to Officers

Local 665 did not report the names of some officers and the total amounts of payments to them or on their behalf in Item 24 (All Officers and Disbursements to Officers). All persons who held office during the year must be reported in Item 24 regardless of whether they received any payments from the union. During the audit, you advised that Gerald Hamilton, Sherman Bradley, and Perry Dorn served as executive board members. However, those individuals are not identified on the LM-3. Collectively, those individuals received at least \$2,356.

Local 665 did not include some payments for lost time and dues reimbursements to officers totaling at least \$6,019.00 in the amounts reported Item 24 (All Officers and Disbursements to Officers) Column D (Gross Salary before taxes and other deductions). It appears these payments were erroneously reported in Item 24 Column E (Allowances and Other Disbursements).

Most direct disbursements to officers and some indirect disbursements made on behalf of officers must be reported 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).

3. 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 constitution and bylaws with its LM report when it makes changes to its constitution or bylaws. Local 665 amended its constitution and bylaws in 1999, but did not file a copy with its LM report for that year.

Local 665 has now filed a copy of its constitution and bylaws.

Local 665 must file an amended Form LM-3 for fiscal year ending June 30, 2007, to correct the deficient items above. I provided you with a blank form and instructions, and advised you that the reporting forms and instructions are available on the OLMS website (www.olms.dol.gov). The amended Form LM-3 should be submitted to this office at the above address as soon as possible, but no later than April 25, 2008. Before filing, review the report thoroughly to be sure it is complete, accurate, and signed properly with original signatures.

Other Issues

Stewards Allowance as Taxable Income

The audit revealed that Local 665 may not be properly following state or federal requirements for withholding of various taxes from payments to stewards. While Local 665 itself may be exempt from income taxes, payments made by Local 665 to officers and employees are not exempt, except in certain circumstances. While this office has no authority to interpret the state or federal tax code, it is my understanding that all salary and supplemental payments are subject to the withholding of income, Social Security, and Medicare taxes and that Local 665 as an "employer" must also pay its share of Social Security and Medicare taxes. Local 665 may be liable for the Federal Unemployment Tax (FUTA) as well.

I recommend that you contact the Wisconsin's Department of Revenue in Madison, WI at (608) 266-2772 (ask for the publication "Wisconsin Employer's Withholding Tax Guide"), and the Internal Revenue Service (ask for "Circular E, Employer's Tax Guide," and Form 990, which Local 665 may be required to file). I also suggest that you determine Local 665's requirements, if any, under the Wisconsin Worker's Compensation Act by contacting the Wisconsin Department of Workforce Development (DWD) at its Worker's Compensation Division in Madison, WI at (608) 266-1340.

I want to extend my personal appreciation to Iron Workers Local 665 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: Gerald Kertz, financial secretary-treasurer