

U.S. Department of Labor

Employment Standards Administration
Office of Labor-Management Standards
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July 10, 2009

Mr. Joseph Power, President
United Brotherhood of Carpenters
Local 40
10 Holworthy Street
Cambridge, MA 02138

LM File Number: 006-252

Case Number: [REDACTED]

Dear Mr. Power:

This office has recently completed an audit of Carpenters Local 40 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 officers Patrick Connerty, John Cusack, Mark Erlich, Tim Perkins, Tom Puglia, and Mark Sutherland on July 9, 2009, 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 40's records for the year ending June 30, 2008, revealed the following recordkeeping violations:

1. Disposition of Property

Local 40 did not maintain an inventory of hats, t-shirts, decals, 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 28 of the LM-2 (Other Assets). 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 28. The union must record in at least one record the date and amount received from each sale of union hats, t-shirts and other items.

2. Lack of Salary Authorization

Local 40 did not maintain sufficient records to verify that the salaries reported in Schedule 12 (Disbursements to Employees) of the LM-2 were the authorized amount and, therefore, were correctly reported. The union must keep a record, such as meeting minutes, to show the rate of current salary and any benefits received by employees, as authorized by the entity or individual in the union with the authority to establish salaries.

Based on your assurance that Local 40 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-2) filed by Local 40 for fiscal year ending June 30, 2008, was deficient in the following areas:

1. Acquiring and Disposing of Property

Item 15 of the LM-2 (During the reporting period did your organization acquire or dispose of any assets in any manner other than by purchase or sale?) should have been answered, "Yes," because the union purchased at least \$8,569.85 worth of hats during the audit year, which they gave away to members. The union must identify the type and value of any property received or given away in the additional information section of the LM report along with the identity of the recipient(s) or donor(s) of such property. The union does not have to itemize every recipient of such giveaways by name. The union can describe the recipients by broad categories if appropriate such as "members" or "new retirees." In addition, the union must report the cost, book value, and trade-in allowance for assets that it traded in.

2. Failure to Itemize Disbursements

Local 40 did not properly report several "major" transactions in Schedules 15 through 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 that the union paid at least \$17,461.68 to The Frank Doolittle Company for t-shirts, baseball caps, hard hat stickers, and decals. Only those t-shirts purchased and intended for resale should be reported in Item 59 (Supplies for Resale); however, it appears that all merchandise purchased by the union was included in this item. Invoices indicate that at least \$12,114.50 of those purchases was exclusively for hats, stickers, or decals that the union regularly gives away to members. It appears that these expenditures were improperly reported in Item 59.

Item 59 must only report the value of supplies that will be resold, not those to be given away. Local 40 should have reported the disbursements to The Frank Doolittle Company for hats, stickers, and decals in the appropriate schedule as named payee itemized disbursements, for single expenses of over \$5,000, and named payee non-itemized disbursements, for payments of less than \$5,000 to the same company.

3. Number of Members

It appears that Local 40 incorrectly reported the number of its members in Item 20 and Schedule 13 (Membership Status). Although form LM-2 indicates that the membership at the end of the audit year was 1,967, President Power explained that the union only has about 1,350 members, including retirees. Labor organizations must report and define all categories of membership tracked by the union, and indicate the number of members in each category in Schedule 13.

4. 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 40 amended its constitution and bylaws in 2000, but did not file a copy with its LM report for that year. Local 40 has now filed a copy of its constitution and bylaws.

I am not requiring that Local 40 file an amended LM report for 2008 to correct the deficient items, but Local 40 has agreed to properly report the deficient items on all future reports it files with OLMS.

Other Violation

The audit disclosed the following other violation:

Inadequate Bonding

The audit revealed a violation of LMRDA Section 502 (Bonding), which requires that union officers and employees be bonded for no less than 10 percent of the total funds those individuals or their predecessors handled during the preceding fiscal year.

Local 40's officers and employees are currently bonded for \$140,000, but they must be bonded for at least \$145,018. Local 40 should obtain adequate bonding coverage for its officers and employees immediately. Please provide proof of bonding coverage to this office as soon as possible, but not later than Monday, July 27, 2009.

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I want to extend my appreciation to Carpenters Local 40 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: Mark Erlich, Financial Secretary
Mark Sutherland, Treasurer