

U.S. Department of Labor

Employment Standards Administration
Office of Labor-Management Standards
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March 6, 2008

Mr. William Warner, President
Carpenters Local 731
1210 North 8th Street
Sheboygan, WI 53081

LM File Number: 521-598
Case Number: [REDACTED]

Dear Mr. Warner:

This office has recently completed an audit of Carpenters Local 731 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 Business Manager Bob Guenther and Business Agent/Treasurer Joe Mrotek on March 4, 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 731's 2007 records revealed the following recordkeeping violations:

1. Meal Expenses

Local 731 did not require officers and employees to submit itemized receipts for meal expenses on some occasions. For example, on September 9, 2006, a meal at Blue Bayou Inn was charged to Business Manager Bob Guenther's union credit card. The credit card receipt was retained for the expense. However, an itemized receipt has not been retained. Itemized receipts provided by restaurants to officers and employees must be maintained. 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 731 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, on March 6, 2007, a meal at the Wisconsin Restaurant was charged to Bob Guenther's union credit card. The names of those in attendance and the union business conducted have not been recorded in union records. 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.

2. Voided Checks

During the organizational interview, Mr. Mrotek stated that all voided checks are retained by the local; however, some voided checks have not been retained.

A check is a legal instrument that, when used, creates a transaction required to be reported on a Labor Organization Annual Report. Voided checks are required to be retained to verify, clarify, and support the information reported by labor organizations on LM reports. Retention of a voided check is essential to verify that the check was not in fact issued and that a reportable transaction occurred.

Although additional records may be retained that identify checks that were voided, and bank statements may show that such checks did not clear, such records alone are not adequate to verify whether a check was issued and a reportable transaction occurred.

Based on your assurance that Local 731 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 LM-3 filed by Local 731 for fiscal year ending June 30, 2007, was deficient in the following areas:

1. Reporting of Dues

Local 731 failed to report in item 38 (Dues) of the LM-3 the actual amount of dues it received. During the audit year, Local 731 received \$128,007.85 in dues; however, \$162,027 was reported on the LM report. It appears that dues received by the Regional Council on behalf of Local 731 may have been included in the amount reported in item 38.

The instructions for the LM-3 state "If an intermediate or parent body receives dues checkoff directly from an employer on behalf of your organization, do not report in Item 38 the portion retained by that organization for the per capita tax or other purposes, such as a special assessment." The amount that should be reported in Item 38 is the total amount of dues actually received by Local 731. However, if an intermediate or parent body received your organization's dues checkoff and disbursed part of it to another entity on your local's behalf, that amount should also be included in the amount reported in Item 38.

2. Reporting of Per Capita Tax

Local 731 failed to report in item 47 (Per Capita Tax) of the LM-3 the actual amount of per capita tax that was paid. During the audit year, Local 731 paid \$23,877.38 in per capita tax; however, \$60,576 was reported in item 47. In the case of Local 731, the Regional Council received all dues on behalf of Local 731, withheld from the amount collected per capita taxes owed to the Council, and remitted the remaining

amount to Local 731. It appears that the amount reported in Item 47 erroneously includes the amounts withheld by the Regional Council for per capita taxes. Amounts that the Regional Council collects from employers for dues checkoff and retains for payment of per capita taxes are not to be included on your union's LM-3 report as receipts or disbursements of your local. In addition, if the intermediate body or parent body disbursed part of your organization's dues checkoff on your organization's behalf, the amount should be included in Item 47.

I am not requiring that Local 731 file an amended LM report for 2007 to correct the deficient items, but Local 731 has agreed to properly report the deficient items on all future reports it files with OLMS.

I want to extend my personal appreciation to Carpenters Local 731 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: Joe Mrotek, Business Agent/Treasurer
Bob Guenther, Business Manager