

U.S. Department of Labor

Employment Standards Administration
Office of Labor-Management Standards
Birmingham Resident Office
950 22nd Street North
Room 601
Birmingham, AL 35203
(205)731-0239 Fax: (205)731-0305



January 26, 2009

Ms. Debbie Jordan, President
Communications Workers AFL-CIO
Local 3974
635 N Ann Ave
Tallasse, AL 36078

LM File Number 067-041
Case Number: [REDACTED]

Dear Ms. Jordan:

This office has recently completed an audit of Local 3974 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 yourself, Secretary/Treasurer James Markham, and Vice President Allen Brasher on January 22, 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 3974's 2008 records revealed the following recordkeeping violations:

1. Lack of Salary Authorization

Local 3974 did not maintain records to verify that the salaries reported in Item 24 (All Officers and Disbursements to Officers) of the LM-3 were the authorized amounts and therefore were correctly reported. The union must keep a record, such as meeting minutes, to show the current salary authorized by the entity or individual in the union with the authority to establish salaries.

2. General Disbursements

Local 3974 did not retain adequate documentation for general disbursements from the union's funds. For example, Check Number [REDACTED], dated 2-5-08, \$192.50, payable to Allen Brasher for lodging expenses at the annual District Meeting in Lake Buena Vista, FL did not have an invoice or receipt. Check Number [REDACTED], dated 5-5-08, \$500.00, payable to Wilson Accounting for professional services did not have an invoice or receipt. Check Number [REDACTED], dated 6-19-08, \$48.60, payable to Moore's Flowers for a flower gift did not have an invoice or receipt. Check Number [REDACTED], dated 7-30-08, \$93.15, payable to Judy's Secret Garden for flowers did not have an invoice or receipt. Check Number [REDACTED], dated 7-30-08, \$500.00, payable to Wilson Accounting for professional services did not have an invoice or receipt.

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.

Based on your assurance that Local 3974 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 violations 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 3974 for fiscal year ending September 30, 2008, was deficient in the following areas:

1. Failure to File By Laws

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 3974 amended its constitution and bylaws in March 1997, but did not file a copy with its LM report for that year or any year since. As agreed, Local 3974 will file a copy of its current constitution and bylaws with OLMS as soon as possible but not later than February 27, 2009.

2. Disbursements to Officers

Local 3974 did not include some reimbursements to officers totaling at least \$642.98 in the amounts reported Item 24/Column D (All Officers and Disbursements to Officers). It appears the union erroneously reported these payments in Item 24/Column E. The union must report most direct disbursements to Local 3974's 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).

3. Certificates of Deposit Reported As Investments

Local 3974 improperly included the value of certificate(s) of deposit as investments on Line 28 (Investments). For LM reporting purposes, OLMS considers a certificate of deposit to be cash. The purchase or redemption of a certificate of deposit is a transfer of cash from one account to another and, therefore, the local should not report these transactions as receipts or disbursements.

4. Location of Records

Local 3974 did not complete Item 9 of Form LM-3. The instructions for completing Form LM-3 state the location of the union records must be stated and if the records or not kept at the mailing address listed in Item 8 then the union must explain in Item 56 where the records are located.

5. Rates of Dues and Fees

Local 3974 did not complete Item 23 of Form LM-3. The instructions for completing Form LM-3 state the dues and fees of your organization must entered in this section and a "0" entered as appropriate.

6. Interest Income

Local 3974 listed \$147.00 in interest income on Item 41 when the correct amount should have been \$5207.09. It appears the union erroneously reported the interest in Item 28 (Investments) and counted the interest income in their certificates of deposit. Interest income is considered a cash receipt and all income earned from interest should be reported in Item 41.

Local 3974 must file an amended Form LM-3 for fiscal year ending September 30, 2008, to correct the deficient items discussed 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 not later than February 27,

2009. Before filing, review the report thoroughly to be sure it is complete, accurate, and signed properly with original signatures.

Other Violations

The audit disclosed the following other violations:

Deficient Reporting (Form LM-3 for fiscal year ending September 30, 2007)

OLMS reviewed the Labor Organization Annual Report, Form LM-3, filed by your union for the FYE 9-30-2007 and numerous errors were detected. Based upon the error summary for the FYE 09-30-2007 that I reviewed with you during the Exit Interview, Local 3974 must file an amended Form LM-3 for this fiscal year to correct the deficient items. 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 not later than February 27, 2009. Before filing, review the report thoroughly to be sure it is complete, accurate, and signed properly with original signatures.

I want to extend my personal appreciation to Local 3974 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: Secretary/Treasurer James Markham, Vice President Allen Brasher