

U.S. Department of Labor

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February 28, 2011

Mr. Frank Vasquez, President
Communications Workers, AFL-CIO, Local 7702
421 North Main Street, Suite 416
Pueblo, CO 81003-3187

Case Number: [REDACTED]
LM Number: 016805

Dear Mr. Vasquez:

This office has recently completed an audit of Communications Workers, AFL-CIO, Local 7702 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, Vice President Justyn Bischoff, and CWA National Staff Representative Jana Smith-Carr on February 22, 2011, 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 7702's 2010 records revealed the following recordkeeping violations:

1. General Reimbursed and Credit Card Expenses

Local 7702 did not retain adequate documentation for many reimbursed expenses or debit card expenses incurred by union officers totaling at least \$8,139. For example, officers made debit card and EFT withdrawals from its general fund, but failed to maintain all expense receipts or vouchers for charges made with union debit cards. OLMS reviewed 213 expense vouchers for a six-month period and found that 76 vouchers were missing the supporting documentation for union expenses.

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 LM report, are responsible for properly maintaining union records.

2. Lost Wages

Local 7702 did not retain adequate documentation for lost wage reimbursements to union officers in 39 instances for a six-month period reviewed. Local 7702 kept expense vouchers and copies of checks paid to officers for lost time, but officer payroll stubs were not attached to numerous vouchers to show the rate of pay and hours lost to conduct union activity non-paid (UAN) time. Officers did not identify the union business conducted on some lost time vouchers. Only nine payroll stubs were found for a six-month period sampled.

The union failed to document approvals for many lost time claims in meeting minutes. The union documented some events in minutes, but the minutes were insufficiently descriptive regarding the approval of travel events, the total expenses allowed, and minutes were often silent regarding the names and number of officers or members authorized to travel.

The union must maintain records in support of lost wage claims that identify each date lost wages were incurred, the number of hours lost on each date, the applicable rate of pay, and a description of the union business conducted.

According to Sections 1.3.1 to 1.3.3 of CWA Local 7702's Financial Policy dated February 2007, money paid in lieu of lost wages must be equal to members hourly wage rate lost during a standard tour, it must not include differential, overtime, or any other amount that would be in excess of the standard tour amount, and a union check for lost wages must include the appropriate pay stub displaying non-paid time for the time claimed.

Local 7702 agreed to continue using the CWA expense voucher to satisfy this requirement. I also provided another sample of an expense voucher the union may use which identifies the type of information and documentation that the local must maintain for lost wages and other officer expenses.

3. Failure to Record Receipts

Local 7702 did not record in its receipts records any employer dues check off checks or interest earned on certificates of deposit totaling at least \$70,020. For example, no receipts

were entered in the union check register for the audit period. 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.

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 the union reporting some receipts for a different year than when it actually received them.

4. Information not Recorded in Meeting Minutes

During the audit, officers advised OLMS that the membership authorize and approve travel and miscellaneous expenses outside of normal recurring expenses such as rent, telephone, internet, and officer and employee salaries. Minutes are insufficiently descriptive regarding membership approval for travel and miscellaneous expenses because the details of specific items authorized, the amount approved, and the names of those authorized to travel are often missing. Minutes often state that issues are tabled until the next meeting, but subsequent meetings do not contain any reference to unsettled issues from prior meetings.

For example, the union tabled a motion to buy a \$2,000 CD in October 2009, but subsequent minutes never referenced the CD. Union approved a motion at the October 6, 2009 membership meeting to deposit \$300 to its savings account every month. However, the issue was never mentioned in subsequent minutes, and bank records show that the union did not make \$300 monthly deposits to a savings account during the audit period. The union approved a \$10,000 deposit into a PIN fund at the September 7, 2010 membership meeting. However, subsequent meeting minutes do not contain any reference to a new PIN account.

The October 5, 2010 minutes note that union plans to hold a quarterly stewards meeting, but the location, number of attendees, and cost of the meeting is missing in the minutes. The minutes also state that \$1,500 each was approved for two members to attend the Fourth Quarterly Officer's meeting. However, minutes are missing the names of officers, and the dates and location of the meeting. The union also approved \$2,500 for an ATT Leadership Conference but the conference dates, location, and number of attendees is missing from the minutes. The January 5, 2010 minutes note that union planned to send only two officers to the District Conference in May, and possibly a third person to be decided later. However, the minutes are missing details regarding the amount approved, or the dates and location of the conference, and cost for participants.

The proper maintenance of union records is the personal responsibility of the individuals who are required to file Local 7702's LM report. You should be aware that under the provisions of Section 209(a) of the LMRDA and Section 3571 of Title 18 of the U.S. Code, willful failure to maintain records can result in a fine of up to \$100,000 or imprisonment for not more than one year, or both. Under the provisions of Section 209(c) of the LMRDA and Section 3571 of Title 18 of the U.S. Code, willful destruction or falsification of records can result in a fine

of up to \$100,000 or imprisonment for not more than one year, or both. The penalties provided in Section 209(c) and Section 3571 of Title 18 apply to any person who caused the violations, not just the individuals who are responsible for filing the union's LM report. Based on your assurance that Local 7702 will retain adequate documentation in the future, OLMS will take no further enforcement action at this time regarding the above violations.

Reporting Violations

1. Disbursements to Officers (LM-3)

Local 7702 did not include additional reimbursements totaling at least \$2,841 to officers in Item 24 of its LM-3 report for fiscal year ending September 30, 2010. The union failed to report \$4,536 in salary and allowances paid to eight additional officers, and a new officer was not listed in Item 24 (All Officers and Disbursements to Officers). The union also overstated the salary of one employee on its LM-3 report for FYE September 30, 2010.

The union must report most direct disbursements to Local 7702 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).

Local 7702 must file an amended Form LM-3 for the fiscal year ended September 30, 2010, 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 March 30, 2010. Before filing, review the report thoroughly to be sure it is complete, accurate, and signed properly with original signatures.

2. 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 7702 added a "Financial Policy" section to its March 16, 2007 bylaws; however, this section of the bylaws was not filed with the union's LM report for that year.

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During the audit, the union provided a copy of its financial policy which is now on file with OLMS.

Other Issues

1. Expense Policy

As I discussed during the exit interview with officers, the audit revealed that Local 7702 does not have a clear policy regarding the types of expenses personnel may claim for reimbursement and the types of expenses that may be charged to union credit cards. OLMS recommends that union officials adhere to its written guidelines concerning such matters. If expenses are approved, the results of Local 7702 “money motions” need to be sufficiently documented in meeting minutes or an annual budget.

2. Signing Blank Checks

During the audit, Local 7702 Treasurer Nathan Schlegel advised that officers sign blank checks. Your union’s bylaws require that all checks be signed by two officers. The two signature requirement is an effective internal control of union funds. Its purpose is to attest to the authenticity of a completed document already signed. However, signing a blank check in advance does not attest to the authenticity of a completed check, and negates the purpose of the two signature requirement. OLMS recommends that Local 7702 review these procedures to improve internal control of union funds.

I want to extend my personal appreciation to Communications Workers, AFL-CIO, Local 7702 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,

[REDACTED]
Investigator

cc: Mr. Nathan Schlegel, Treasurer, CWA Local 7702
Ms. Jana Smith-Carr, National CWA Staff Representative