

U.S. Department of Labor

Employment Standards Administration
Office of Labor-Management Standards
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March 23, 2007

Mr. Terry Monfort, President
IBEW Local 158
1570 Elizabeth Street
Green Bay, WI 54302

Re: Case Number [REDACTED]

Dear Mr. Monfort: --

This office has recently completed an audit of IBEW Local 158 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, Business Manager Jack Heyer, Treasurer Gerald Vandenzelen, and Administrative Assistant Lori Schmidt on February 16, 2007, 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 adequate records be maintained for at least 5 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, all records used or received in the course of union business must be retained. This includes, in the case of disbursements, not only the retention of original bills, invoices, receipts, and vouchers, but also adequate additional documentation, if necessary, 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 note can be written on it providing the additional information.

In the case of receipts, the date, amount, purpose, and source of all money received by the union must be recorded in at least one union record. Bank records must also be retained for all accounts.

The audit of Local 158's 2005 records revealed the following recordkeeping violations:

1. Receipt Records

Local 158 has not been properly recording dues check-off checks, checks received from banking institutions and dues money and reinstatement fees received from members who were not in good standing during the audit year. Additionally, Local 158 has not been accurately identifying the date on which cash dues were received from some members.

Local 158 did not record each employer check-off check as a separate receipt from the employer. Instead, Local 158 breaks down each check-off check into individual dues deductions and allocates these amounts to the ICS account of the member for whom the employer deducted and transmitted dues. At least three employers remit dues deductions to Local 158 several times each month. It is the practice of Local 158 to hold the initial employer check-off check until subsequent check(s) arrive later in the month. In these instances, the individual member dues deductions that make up each check are totaled by member and entered into each member's ICS account as one payment. The audit also revealed that Local 158 held employer check-off checks received before December 31, 2004 and recorded their receipt in ICS in 2005. These receipts were erroneously reported on the LM-2 report for fiscal year ending December 31, 2005 (See reporting violations below).

Local 158 received several checks from its banks during fiscal year 2005. The local did not identify the date these checks were received and the purpose of each receipt.

Dues received from members who were arrears in their dues payments were not recorded in any union record at the time the payment was received. Local 158 held these cash payments until the member paid both the reinstatement fee and the additional money owed for back dues. It is my understanding that you cannot enter partial payments into ICS, and therefore it would be necessary to receive a full payment from a member in order to process the payment in ICS. However, any money that the local receives has to be recorded in some union record that identifies the date it was received, the amount of the receipt, and the purpose of the receipt, even if the payment cannot be immediately entered into ICS.

Local 158 receives cash dues on a daily basis. However, dues are not entered into ICS on a daily basis. It is my understanding that Ms. Schmidt enters all payments into ICS.

In the absence of Ms. Schmidt, the dues payments are not entered into ICS as they are received. In these cases, another union record must be used to identify the date the payment was received.

2. Officer and Employee Expenses

The president and treasurer (or corresponding principal officers) of your union, who are required to sign your union's LM report, are responsible for the proper maintenance of union records. In the case of Local 158, the audit revealed adequate documentation was not retained for reimbursed expenses and credit card expenses incurred by union officers and employees that are listed below. The date, amount, and business purpose of every expense must be recorded on at least one union record. In addition, the names of individuals present for meal expenses and the locations (names of restaurants) where meal expenses were incurred must be recorded.

In the case of reimbursed expenses, checks [REDACTED] to Organizer [REDACTED] [REDACTED] included payment for two grocery expenses for which an adequate description of the business purpose of each expense was not identified. Check [REDACTED] to Mr. Heyer included payment for expenses at Heraly's and Pizza Hut for which an adequate description of the business purpose of each expense was not identified.

In the case of payments to credit card companies, check [REDACTED] to Elan Financial Services included payment for an expense incurred at Pizza Hut for which no union purpose was identified.

In the case of expenses reimbursed to employees and officers from the petty cash fund, a cash register receipt from Super Valu dated 5/6/05 identified the business purpose of the food expense as "negotiations" and did not identify the names of those present.

3. Mileage Expenses

Local 158 officers and employees who used their personal vehicles for union business did not maintain mileage logs documenting the business use of their personal vehicles. In the case of reimbursed mileage expenses for personal vehicles used for business travel, records must be maintained which identify the date of travel, locations traveled to and from, number of miles driven, and the business purpose of each use.

You received reimbursement for mileage expenses with checks [REDACTED] from the general fund checking account, and check [REDACTED] from the TLA checking account.

You did not identify the business purpose and the destinations traveled to and from for numerous trips that were reimbursed with these three checks

As agreed, provided that Local 158 maintains adequate documentation as discussed above in the future, no additional enforcement action will be taken regarding these violations.

Reporting Violations

The CAP 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 158 for fiscal year ending December 31, 2005, was deficient in the following areas:

1. Disposition of Property

Item 15 (Acquire or dispose of any assets in any manner other than by purchase or sale) should have been answered, "Yes," because the union gave away bibles, service pins, flash lights, and coolers totaling more than \$2,000 during the year. Local 158 also received donations from area vendors, including Local 158 employers, in the form of flashlights, gift cards, coolers, hats, clothing, liquor, etc., that were later given away to members as door prizes at the annual banquet.

The type and value of any property received or given away must be identified in the additional information section of the LM report along with the identity of the recipient(s) or donor(s) of such property.

2. Dues and Agency Fees

Item 36 (Dues and Agency Fees) erroneously included dues payments received from the Department of Transportation (DOT) that were received by Local 158 in the fiscal year ending December 31, 2004. Ms. Schmidt advised that Local 158 received a check-off check from the DOT in early December 2004. The subsequent check for dues deduction for the month of December did not arrive until after December 31, 2004. Ms. Schmidt did not record the first check in union records until she received the subsequent check in January 2005. She totaled the dues deduction for each member from both checks and entered their receipt into the individual members' ICS accounts in January of 2005. This receipt was erroneously included in the total dues amount reported in Item 36 of the LM-2 Report for fiscal year 2005. As mentioned above, I understand that ICS does not

allow you to record partial payments, however some other record showing the exact date of receipt of money that cannot be recorded promptly in ICS must be maintained and will allow these receipts to be accurately reported on the LM.

I am not requiring that Local 158 file an amended LM report for 2005 to correct the deficient items, but as agreed, Local 158 will properly report the deficient items on all future reports filed with this agency.

Other Violations

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 handled by those individuals or their predecessors during the preceding fiscal year. The audit revealed that officers were not bonded for the minimum amount required. Adequate bonding coverage was not obtained and documentation provided during the audit. No further enforcement action will be taken.

Other Issues

1. As mentioned earlier, Local 158 does not have a uniform system for adequately identifying receipts of money. The local employs several different receipt systems, including duplicate receipts for the sale of union apparel, ICS receipts (permanent and temporary) for dues money, and excel spreadsheets for additional money received by the union that is not dues money or money received for the sale of supplies. Even with three different types of receipt records, Local 158 fails to accurately record all receipts of income.

We suggest that Local 158 adopt a policy of recording all receipts in one union record, including receipts that the local has not recorded in the past, including employer check-off checks, checks from banking institutions, dues payments not immediately processed in ICS, etc. As explained during the exit interview, this could be as easy as a daily receipt log in which all receipts are identified as Local 158 receives them.

At the very least, Local 158 must begin recording all receipts in some union record. As mentioned earlier, that union record must accurately identify the date the money was received, the amount of the receipt, the source of the receipt, and the purpose of the receipt.

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We also suggest that Local 158 consider depositing receipts of income in a more timely manner, specifically reinstatement fees and dues payments from members who are behind in their monthly dues payments.

2. It appears that Local 158 may not be following state or federal requirements for withholding of various taxes from payments to officers and employees for meeting attendance. While the local itself may be exempt from income taxes, payments made by Local 158 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 to part-time officers are subject to the withholding of income, Social Security, and Medicare taxes and that Local 158 as an employer must also pay its share of Social Security and Medicare taxes. Local 158 may also be liable for the Federal Unemployment Tax (FUTA) for these individuals as well.

I recommend that you contact the Wisconsin Department of Revenue in Madison at (608) 266-2776 (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. You may also consider contacting your International representative or another local for further assistance regarding tax reporting requirements.

I want to extend my personal appreciation to 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 are passed on to future officers. If we can provide any additional assistance, please do not hesitate to call.

Sincerely,


Investigator

cc: Jack Heyer, Business Manager
Gerald Vandenzelen, Treasurer
Carl Arnoldi, Vice President
LM 055-042