

**U.S. Department of Labor**

Employment Standards Administration  
Office of Labor-Management Standards  
Kansas City Resident Investigative Office  
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June 9, 2009

Mr. Lloyd Lavin, Business Manager  
Electrical Workers IBEW AFL-CIO  
Local 226  
1620 NW Gage Blvd., Suite A  
Topeka, KS 66618

LM File Number 016-198

Case Number: [REDACTED]

Dear Mr. Lavin:

This office has recently completed an audit of IBEW Local 226 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 on May 28, 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.

The CAP disclosed the following:

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 226's 2008 records revealed the following recordkeeping violations:

1. Disposition of Property

Local 226 did not maintain an inventory of hats, jackets, 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. 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, jackets and other items.

2. Lack of Salary Authorization

Local 226 did not maintain records to verify that the salary for Office Secretary Janice Greenlee reported in Schedule 12 (Disbursements to Employees) of the LM-2 was the authorized amount and therefore was 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.

3. Disbursement Records

Local 226 did not keep adequate disbursement records for its COPE fund. The local must keep a record of disbursements made from this account. This information should include the name of the person or organization funds are being disbursed to, the date of disbursement, and amount of disbursement. Because the local disburses money from this account through money orders, the carbon copies

provided with the money order must be retained; if a carbon copy is not provided, a photocopy should be made to verify the payments.

Based on your assurance that Local 226 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 226 for fiscal year ending December 31, 2008 was deficient in the following areas:

#### 1. PAC Funds

Item 11, (During the reporting period did your organization have a political action committee (PAC) fund?) was incorrectly answered "No." Local 226 had its own PAC fund during 2008. As stated in the LM-2 report instructions, PAC funds kept separate from your union's treasury need not be included in your union's LM report if publicly available reports on the PAC funds are filed with a federal or state agency. However, the audit revealed that Local 226's PAC fund is not reported to any other state or federal agency. Therefore, the financial activities of the PAC fund must be included in Local 226's LM report.

#### 2. Acquire/Dispose of Property

Item 15, (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 gave away t-shirts and hats during the year. 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.

#### 3. Disbursements to Officers and Employees

Local 226 did not include payments to officers and employees totaling at least \$13,000 in Schedule 11 (All Officers and Disbursements to Officers) and Schedule 12 (Disbursements to Employees). It appears that the local erroneously reported these payments in Schedules 15 through 19.

The union must report in Column F of Schedules 11 and 12 (Disbursements for Official Business) direct disbursements to officers and employees for reimbursement of expenses they incurred while conducting union business. In addition, the union must report in Column F of Schedules 11 and 12 indirect disbursements made to another party (such as a credit card company) for business expenses union personnel incur. However, the union must report in Schedules 15 through 19 indirect disbursements for business expenses union personnel incur for transportation by public carrier (such as an airline) and for temporary lodging expenses while traveling on union business. The union must report in Column G (Other Disbursements) of Schedules 11 and 12 any direct or indirect disbursements to union personnel for expenses not necessary for conducting union business.

#### 4. Automobile Expenses

Local 226 did not include in the amounts reported in Schedule 11 (All Officers and Disbursements to Officers) and Schedule 12 (Disbursements to Employees) disbursements for the operation and maintenance of union automobiles.

The LM-2 instructions provide two methods for reporting automobile-related expenses. The union must report in Schedules 11 and 12 direct and indirect disbursements for the operation and maintenance of union owned and leased vehicles and the operation and maintenance of vehicles owned by union personnel (including gasoline, repairs, and insurance). The union may divide the expenses and report them in Columns F and G based on miles driven for union business (supported by mileage logs) compared with miles driven for personal use.

Alternatively, rather than allocating the expenses between Columns F and G, if 50 percent or more of an officer's or an employee's use of a vehicle was for official business, the union may report all of the expenses relative to the vehicle assigned to the officer or employee in Column F of Schedule 11 or 12 with an explanation in Item 69 (Additional Information) that the officer or employee used the vehicle part of the time for personal business. Similarly, if a vehicle assigned to an officer or employee was used less than 50 percent of the time for business, all of the

expenses relative to that vehicle may be reported in Column G with an explanation in Item 69 that the officer or employee used the vehicle partly for official business.

5. 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 226 amended its constitution and bylaws in 1999, but did not file a copy with its LM report for that year. Local 226 has now filed a copy of its constitution and bylaws.

6. Asset Reporting

Schedule 3, (Sale of Investments and Fixed Assets) was left blank although the local sold two cars during fiscal year 2008. These sales must be reported in Schedule 3. Likewise, Schedule 4 (Purchase of Investments and Fixed Assets) was blank even though the local purchased three cars during the fiscal year. Although the disbursement was reported in Schedule 18 (General Overhead), the purchases should be reported in Schedule 4.

Additionally, all of the automobiles owned by the local, as well as the building they own located at 2020 SE 21<sup>st</sup> Street in Topeka, KS, must be reported in Item 6 (Fixed Assets).

7. Building Corporation

Item 10 (During the reporting period did the labor organization create or participate in the administration of a trust or a fund or organization, as defined in the instructions, which provides benefits for members or beneficiaries?) was incorrectly answered "no." Local 226 participates in a building corporation which is a trust Local 226 has an interest in and must be reported on the LM-2.

8. Rates of Dues and Fees

Item 21(b) (Working Dues/Fees) was blank on the LM-2 report. In 2008, Local 226 members paid 6% of their gross wages to the local as working dues. This information must be accurately reported on the LM-2 report.

Local 226 must file an amended Form LM-2 for fiscal year ending December 31, 2008 to correct the deficient items discussed above. I explained to you the filing procedures and the availability of filing software on the OLMS website ([www.olms.dol.gov](http://www.olms.dol.gov)). The amended Form LM-2 must be electronically filed as soon as possible, but not later than July 1, 2009. Before filing, review the report thoroughly to be sure it is complete and accurate, and properly signed with electronic signatures.

#### Other Violations

The audit disclosed the following other violation(s):

1. 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 226's officers and employees are currently bonded for \$400,000, but they must be bonded for at least \$449,745. Local 226 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 July 1, 2009.

I want to extend my personal appreciation to IBEW Local 226 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: Jeremiah Johnson, President  
Christopher Augustine, C.P.A.