

U.S. Department of Labor

Employment Standards Administration
Office of Labor-Management Standards
Charlotte Remote Location
PO Box 79303
Charlotte, NC 28271
(704)243-1839



May 14, 2009

Mr. Elton Clements, President
Electrical Workers IBEW AFL-CIO
Local 289
3215 Guess Rd, Suite 104
Durham, NC 27705-2668

LM File Number 010-966
Case Number: [REDACTED]

Dear Mr. Clements:

This office has recently completed an audit of IBEW Local 289 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 Financial Secretary Gwen Hopkins, Treasurer Troy Bryan, and you on May 13, 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 289's 2008 records revealed the following recordkeeping violations:

1. General Disbursements and Credit Card Expenses

Local 289 did not retain adequate documentation for direct disbursements and credit card expenses incurred by Vice President Joseph Harris and you totaling at least \$7,812. For example, there are no receipts to support local union disbursements to [REDACTED] and BCTG Local 176 for office and meeting room rent. Further, Vice President Harris and you failed to retain receipts for miscellaneous travel expenses charged to the union credit card for meals and postage.

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.

2. Meal Expenses

Local 289 did not require officers and employees to submit itemized receipts for meal expenses totaling at least \$174. The union must maintain itemized receipts provided by restaurants to officers and employees. 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.

Based on your assurance that Local 289 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-3) filed by Local 289 for fiscal year ending December 31, 2008, was deficient in the following areas:

1. Disbursements to Employees

Local 289 answered yes to Question 17 indicated that they paid an employee salary, allowances, and other expenses totaling more than \$10,000 during the fiscal year. In Item 69, the local identifies you as the recipient. You received these disbursements as an officer of Local 289 and are listed as the president in Item 24; therefore, the local should not answer "yes" to this question.

2. Disbursements to Officers

Local 289 did not include some reimbursements to officers totaling at least \$5,920 in the amounts reported in Item 24 (All Officers and Disbursements to Officers). It appears the union erroneously reported these payments in Item 48 (Office & Administrative Expense).

Additionally, Local 289 did not report the names of some officers and the total amounts of payments to them or on their behalf in Item 24 (All Officers and Disbursements to Officers). The union must report in Item 24 all persons who held office during the year, regardless of whether they received any payments from the union.

The union must report most direct disbursements to Local 289 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. Dues Receipts

Local 289 failed to report the proper amount of dues collected during the fiscal year in Item 38 (Dues). The amount reported is at least \$337 less than reflected in the union financial records.

4. Officer Reimbursements

Local 289 failed to report the amount received from President Clements for reimbursement for his wife's portion of the cellular phone bill in Item 43 (Other Receipts).

As a result of the amounts not reported in Item 38 and 43, Item 44 (Total Receipts) does not reflect the total amount of receipts collected for fiscal year ending December 31, 2008.

5. Cash Reconciliation

It appears that the cash figures reported in Item 25 are not the cash figures according to the union's books after reconciliation to the bank statements. The instructions for Item 25 state that the union should obtain account balances from its books as reconciled to the balances shown on bank statements.

Local 289 provides an explanation for the cash reconciliation errors in Item 69 (Additional Information). The explanation includes adjustments for other assets and liabilities. These amounts are subtracted from the equation using the justification "use of cash." If cash was used to acquire the other assets or as a result of other liabilities, the disbursement should already be recorded in one of the disbursements items.

Form LM-3 must be prepared using the cash method of accounting. Under the cash method of accounting, receipts are recorded when money is actually received by your organization and disbursements are recorded when money is actually paid out by your organization.

I am not requiring that Local 289 file an amended LM report for 2008 to correct the deficient items, but Local 289 has agreed to properly report the deficient items on all

future reports it files with OLMS.

Other Violations

The audit disclosed the following other violation:

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 289's officers and employees are currently bonded for \$15,000, but they must be bonded for at least \$30,212. Local 289 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 May 27, 2009.

I want to extend my personal appreciation to IBEW Local 289 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,



Lead Investigator