

U.S. Department of Labor

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Office of Labor-Management Standards
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April 16, 2008

Mr. Michael Mueller, Financial Secretary
IBEW Local 494
3303 South 103rd Street
Milwaukee, WI 53227

LM File Number 040-471
Case Number: [REDACTED]

Dear Mr. Mueller:

This office has recently completed an audit of 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, International Representative Terry Roovers, C.P.A. Thomas Wieland, C.P.A. Steven Barney, and bookkeeper Sue Murray on March 13, 2008 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 494's 2005 records revealed the following recordkeeping violations:

1. General Reimbursed Expenses

The Labor Organization Annual Report (Form LM-2) filed by Local 494 for its fiscal year ending December 31, 2005 reports disbursements to employees totaling \$40,668 in column F of Schedule 12 (Disbursements to Employees). The audit revealed that those payments were primarily reimbursed expenses for mileage, meals, parking, airfare, lodging, and cellular phone bills. However, as detailed below, adequate records were not retained in support of those expenses.

Mileage Expenses

Business Manager Welnak and Representatives Mueller, Hanson, and Kiefenheim, who received reimbursement for business use of their personal vehicles, did not retain adequate documentation to support payments for mileage to them totaling at least \$20,000 during 2005.

The vouchers submitted by the above mentioned individuals for mileage claims often failed to include the identification of the specific locations that were traveled to and from and an adequate description of the business purpose of each use of their personal vehicles.

Local 494 must maintain records which identify this information as well as the dates of travel and number of miles driven.

Cell Phone Bills

During the audit year, most of the business representatives were reimbursed for a portion or their entire personal cellular phone bill. However, several business representatives failed to submit adequate documentation to Local 494 during 2005 for reimbursement of their personal cell phone bills. Some business representatives submitted only photocopies of their personal bills, and some submitted only the summary page of their bills.

If Local 494 pays for any business calls made from an individual's personal cell phone, or pays the entire bill, either as a direct payment to the telephone company or as a reimbursement to the individual, Local 494 must retain the original telephone bills. In addition, the documentation retained must clearly note the charges paid by Local 494.

Meal Expenses

Local 494 did not require officers and employees to submit itemized receipts for meal expenses totaling at least \$500. The union must maintain itemized receipts provided by restaurants to officers and employees.

Local 494's records of meal expenses did not always include written explanations of union business conducted or the names and titles of the persons incurring the restaurant charges. For example, a majority of the meal receipts submitted by Business Manager Welnak either identified him and "Bonnie" as the diners, or the records did not identify the names of those present. Additionally, these receipts rarely included a business purpose. Since many of the receipts were not itemized, and Mr. Welnak often sought reimbursement for only one half of the expense, it is impossible to determine whom Local 494 was reimbursing Mr. Welnak to eat with, and the union business conducted that required the expense be incurred.

Union records of meal expenses must include written explanations of the union business conducted and the full names and titles of all persons who incurred the restaurant charges. Also, the records retained must identify the names of the restaurants where the officers or employees incurred meal expenses.

In addition to Mr. Welnak's reimbursed meal expenses, 11 local meal expenses were charged to the union's credit card totaling over \$1,400 (not directly attributable to Mr. Welnak or his travel expenses). Itemized restaurant receipts were retained for those expenses. However, the records do not identify the names of those present or the business purpose of the expenses.

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. Additionally, union records of meal expenses must include also written explanations of the union business conducted and the full names and titles of all persons who incurred the restaurant charges. Also, the records retained must identify the names of the restaurants where the officers or employees incurred meal expenses.

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. Other Disbursements

In February of 2005, Local 494 sponsored a Valentine's Day Dance in which over \$2,000 in door prizes were given away. Supporting documentation for the purchase of many of the prizes, including several natural touch massages and a chartered fishing boat trip, could not be found in the union's records. However, the local did keep records that show that these items were distributed to specific members at the dance. In the case of items purchased and given away, the union is required to keep the original receipts for all of the items purchased as well as documentation accounting for the disposition of those items. The value of any items on hand at the end of the year must be reported in Item 28 of the LM-2 (Other Assets).

Additionally, throughout the audit year, Local 494 purchased flower arrangements on several occasions. However, documentation in support of several of these purchases could not be found in Local 494's records.

3. Failure to Record Interest

Local 494 failed to record several interest payments in its receipt records for the Sick and Death Benefit Fund totaling over \$1,300.

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.

4. Receipt Records

Local 494 records financial transactions in Peachtree Complete Accounting software, and uses that software to maintain book balances for its bank accounts. In addition, dues payments from members and other types of union receipts are recorded in the IBEW's ICS software program. Periodically, totals of amounts recorded in ICS are recorded as deposits in Peachtree. However, Local 494 failed to record the date, amount, and source of dues check-off payments from employers in any record. In addition, in several instances, the payment dates

recorded in ICS were not the dates that monies were received.

As you know, members are able to pay dues by credit card, by automatic electronic transfers from their personal bank accounts, in person at the union hall, by mail, and through amounts deducted from their paychecks by their employers.

The ICS program is a database the union uses to maintain a separate accounting of each member's dues payments. In the case of check-off checks received from employers, the individual amounts attributed to each member are credited to the members' accounts. According to the International Union, the ICS program is not designed to serve as a receipts journal. For example, in the case of check-off checks, the date, amount, and source of a check cannot be recorded in that program. Such information must be recorded in a separate record.

The audit revealed that some members have a portion of their dues or initiation fees deducted from more than one paycheck in a month. The check-off checks are held, and not deposited, until the full amount of dues for the month or the full initiation fee is received. The dues are recorded in ICS once the member's full dues or initiation fee is received. However, partial dues payments can and should be recorded in ICS when the payments are received.

As previously noted above, 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 date of receipt is required to verify, explain, or clarify amounts required to be reported in Statement B (Receipts and Disbursements) of the LM-2. The LM-2 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.

During the exit interview, I suggested ways that Local 494 could satisfy the recordkeeping requirement. To improve financial controls, OLMS recommends that you deposit all receipts when they are received.

5. Market Recovery Documents Not Retained

Local 494 received requests for targeting funds from the National Electrical Contractors Association (NECA) on behalf of the contractors. Upon receipt of a request from NECA, Office Assistant Marilyn Purdy explained that she takes the information from the NECA request and prepares a Local 494 document that is then forwarded to the Executive Board for approval. The original NECA request is not retained. The original NECA request contains additional information that is not included on the document that is prepared for the Executive Board. Once the target request has been approved by the board, Local 494 sends the requesting contractor timesheets and a completion certificate. The contractor is required to complete these documents and return them to the local following the completion of the job. The timesheets remitted back to the local identify the dates and the hours worked by each Local 494 member that had any time on the job. Once the timesheets are received, Ms. Purdy prepares a summary of time for each job, that is, a list of the total number of hours worked by each member on that particular job, not including dates worked, or hours worked on particular days. Purdy then disposes of the original timesheets. The summary of time and the completion certificates are the documents that are forwarded to the executive board for the final approval for the disbursement of the targeting money. You advised that the original amount approved for the target can be adjusted based on the actual number of hours worked on a job since the initial subsidy is usually based on a formula relative to the number of working hours that the contractor proposed in the initial NECA request. The original NECA requests and the time sheets submitted by contractors must be retained to verify, clarify, and support the market recovery disbursements.

Based on your assurance that Local 494 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 494 for fiscal year ending December 31, 2005, was deficient in the following areas:

1. Acquire or 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?) was answered yes, however, Local 494 failed to provide pertinent additional information in Item 69 regarding over \$7,000 of merchandise and sporting events tickets that were given away during the audit year.

Local 494 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."

2. Total Receipts

The amount recorded in Item 49 (Total Receipts) is not accurate because Local 494 does not accurately record receipts on the date they were received (see recordkeeping violation #4 above). The office staff of Local 494 confirmed that there is always money in the cash drawer that is being held for new members until their applications are approved. This includes money being held that was received in one fiscal year, but recorded in ICS in another fiscal year, therefore being reported on the LM-2 in the wrong year. There were also several employer check-off checks that were received in 2005 but were held and recorded in ICS in 2006 with subsequent checks from the same employer.

3. Disbursements to Officers and Employees

Local 494 did not include a \$600 reimbursement to Marilyn Purdy in Schedule 12 (Disbursements to Employees). It appears that the local erroneously reported this payment in one of the schedules (15-19).

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. Sale and Purchase of Investments (Schedules 3 and 4)

Local 494 reported the sale of over 1.4 million dollars in investments of U.S. treasury notes, corporate bonds, and mutual funds during 2005 in Schedule 3. Local 494 also reported purchasing over 1.5 million dollars of these same types of investments in Schedule 4.

A review of the investments of Local 494 revealed that much, if not all, of the profits from the sale of those investments were promptly reinvested in the same types of investments. However, Local 494 did not identify those reinvestments on Line 14 of Schedule 3, thus grossly overstating the net sales of investments in Item 43 (Sale of Investments and Fixed Assets) and inflating the figure reported in Item 49 (Total Receipts). Local 494 also failed to report any reinvestment amount in Line 14 of Schedule 4, and by doing so overstated the total amount of the net purchases in Item 60 (Purchase of Investments and Fixed Assets) and therefore inflating the figure reported in Item 68 (Total Disbursements).

On April 11, 2008, I spoke with C.P.A. Pat Hoffert from the accounting firm of Reilly, Penner, and Benton LLP, the firm that prepares the LM reports for your local. I advised him of the reporting errors in the above mentioned schedules for the 2005 report. I also advised him that those same errors exist on the 2006 report. We are not requiring Local 494 to amend the 2005 and 2006 LM-2 report at this time, however Mr. Hoffert agreed that the investment schedules for the 2007 report would accurately reflect any money reinvested by Local 494, thus adjusting their total receipts and total disbursements accordingly.

5. 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 494 amended its

constitution and bylaws in 2002, but did not file a copy with its LM report for that year.

Local 494 has now filed a copy of its constitution and bylaws.

I am not requiring that Local 494 file an amended LM report for 2005 to correct the deficient items at this time, but Local 494 has agreed to properly report the deficient items on all future reports it files with OLMS and provide OLMS with additional information regarding the non-itemization of disbursements if they choose to continue citing confidentiality as the reason for not itemizing targeting fund payments.

Other Issues

Failure to Itemize Market Recovery Disbursements

The audit revealed that over \$250,000 in targeting funds disbursed to 15 different contractors were not itemized in any of the disbursement schedules. Several individual disbursements to these contractors exceeded \$5,000, but all the contractors had over \$5,000 in the aggregate paid to them during the audit year. The additional information provided in Item 69 states that disbursements for target supplements were excluded from itemization based on confidentiality.

Pages 26-27 of the LM-2 Instructions provide circumstances in which a union may choose not to itemize specific disbursements due to the confidential nature of the disbursement. The second example under this section on page 27 includes "Information that would expose the reporting union's prospective organizing strategy." However, the instructions also advise that the union must be prepared to demonstrate that the disclosure of the information would harm an organizing drive.

The LM-2 report filed by Local 494 for the fiscal year ending December 31, 2006, does not include the itemization of targeting fund supplements, again advising that the funds are confidential. The 2007 report has not yet been received by this office.

The reporting of market recovery disbursements is currently under review by the OLMS National Office. Within the next few months, OLMS may contact Local 494 for additional information to determine how itemization of the market recovery disbursements could harm an organizing drive.

Mr. Michael Mueller
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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 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: Kenneth Richter, President
Robert Bandkowski, Treasurer