

**U.S. Department of Labor**

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February 8, 2008

Mr. Terry Hayden, Secretary Treasurer  
Plumbers and Steamfitters Local 434  
912 North View Drive  
Mosinee, WI 54455

LM File Number 540-784  
Case Number: |||||

Dear Mr. Hayden:

This office has recently completed an audit of the Plumbers and Steamfitters United Associated Local 434 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, Bookkeeper Heather Block, and CPA Greg Mleziva on January 16, 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 434's 2006 records revealed the following recordkeeping violations:

1. Reimbursed and Credit Card Expenses

Local 434 did not retain adequate documentation for officer and employee expenses, including reimbursed expenses and credit card expenses.

During the audit year, Local 434 sent six members to the Wisconsin Pipe Trades Convention. Each traveler was advanced \$250 before the convention, for a total of \$1,500. The local did not obtain documentation to account for almost \$300 of expenses that were paid with those advances.

In the case of union credit cards, you failed to submit documentation for over \$60 in purchases on the union credit card, Mr. Bencke failed to retain the original invoice for a Valvoline oil change in May of 2006, and Business Representative Chris Ignatowski purchased a countertop pizza oven in April of 2006 for which no business purpose was identified. Additionally, for several meal expenses, itemized receipts were not submitted by you or other business representatives. Local 434 must maintain itemized receipts provided by restaurants to officers and employees. 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. 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.

In addition to reimbursed and credit card expenses, Local 434 had some direct paid expenses for which adequate documentation was not kept. On several occasions during the 2006 audit year, Local 434 disbursed funds directly to Hotel Mead, including checks # || || || || || (\$300.61) and # || || || || || (\$229.91). However, the documentation maintained by Local 434 in support of these checks failed to identify the business purpose of the expense.

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. Disposition of Property

Local 434 did not maintain an inventory of hats, jackets, T-shirts and other property it purchased, sold, or gave away. The value of any union property on hand at the beginning and end of each year must be reported in Item 28 of the LM-2. An inventory or similar record of property on hand must be maintained to verify, clarify, and explain the information that must be reported in Item 28.

Additionally, records were not kept which identified the recipients of the property, including hats, jackets, and shirts, that were given away.

## 3. Receipt Dates not Recorded

Entries in Local 434's receipts journal do not always accurately reflect the date the union received money. For example, the State of Wisconsin is an employer that remits dues payments directly to the local. The checks are received sporadically throughout the month. Ms. Block stated that she waits until the point in the month in which she has received all the checks from the State of Wisconsin and records all the checks as one dues receipt received on the same day, usually the date the last check was received.

Union receipts records must show the actual date of receipt. 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.

See the section below on the Lock Box Clearing Account for additional recordkeeping violations as they relate to receipt records.

Based on your assurance that Local 434 will retain adequate documentation in the future, OLMS will take no further enforcement action at this time regarding the above violations.

### Reporting Violations

#### 1. Bond Amount

During the audit, Local 434 provided documentation that, for the fiscal year ending December 31, 2006, Local 434 was bonded through Travelers Casualty and Surety Company of America for \$425,000; however the amount of the bond reported in Item 14 (Maximum Amount Recovered Under the Labor Organization Fidelity Bond) is \$500,000.

#### 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 sold and gave away hats, jackets, shirts, and lapel pins totaling more than \$4,000 during the audit 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. For reporting purposes, each recipient need not be itemized. Recipients can be described by broad categories, if appropriate, such as "members" or "new retirees."

In addition, the cost, book value, and trade in allowance for assets that were traded in must be reported, including the details of the trade-in of the 2001 Ford Taurus in September of 2006.

#### 3. Other Assets

The amounts reported in Item 28(a) (Other Assets start of reporting period) and Item 28 (b) (Other Assets end of reporting period) do not include the value of inventory, including hats, jackets, shirts, and other union logo items that Local 434 had on hand on those dates.

#### 4. Total Receipts

During the course of the audit, Mr. Mleziva stated that total receipts for LM reporting purposes are calculated based on the total deposits recorded in Peachtree for that fiscal year. The last deposit of the audit year took place on December 28, 2006. Local 434 receipts records show that additional money was received during

the 2006 fiscal year, but was included in the January 12, 2007 deposit and therefore, according to Mr. Mleziva, was not reported as a receipt in 2006. All receipts must be reported on the LM report for the year in which they were received, not necessarily the year in which they were actually deposited into the union's bank account.

See the section below on the Lock Box Clearing Account for additional reporting violations as they relate to receipt records.

I am not requiring that Local 434 file an amended LM report for 2006 to correct the deficient items, but Local 434 has agreed to properly report the deficient items on all future reports it files with OLMS.

#### 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 those individuals or their predecessors handled during the preceding fiscal year. As will be discussed in further detail below, the audit revealed that Local 434's officers and employees were not bonded for the minimum amount required at the time of the audit.

During fiscal years 2006 and 2007, Local 434's officers and employees were bonded for \$425,000, but they must be bonded for at least \$500,000. On January 22, 2008, Local 434 provided documentation to OLMS that the union had obtained adequate bonding coverage.

See the section below on the Lock Box Clearing Account for additional information regarding the bonding violation.

#### Lock Box Clearing Account

During the audit year, Local 434 had a Lock Box Clearing Account (LBCA) set up at People's State Bank (PSB) in Wausau, WI. During the opening interview on October 15, 2007, you stated that a majority of the Local 434 contractors remit payments directly to the LBCA at the PSB. The funds are then handled by the Benefit Plan Administration of Wisconsin (BPAW), which regularly transfers money from that lock box account into different accounts, including the Local 434 General Fund checking (dues money), the Local 434 Organizing Account, the Training Fund Account, the Health and Welfare Fund Account, the Industry Fund Account, and the Pension Fund Account.

PSB representative ||| | | | | | confirmed that the LBCA, named, "Plumbers, Steamfitters, and Service Techs Local 434 Local Box Clearing Account," is a Local 434 account. Both you and Mr. Bencke are authorized signers on the account and have access to transfer, deposit, and withdraw funds from this account. ||| | | | | | also indicated that online access to this account has been granted to ||| | | | | | from the Benefit Plan Administration. ||| | | | | | explained that a bank courier picks up checks daily from the lockbox post office box. The checks are processed by a bank teller. A copy of each check along with the original contractor remittance report that accompanies each check is then mailed to ||| | | | | | at the BPAW. ||| | | | | | stated she accesses the union's online accounts twice a month and transfers deposited money from the LBCA to the accounts identified above. ||| | | | | | submits a report to Local 434 for each transfer of funds. The report identifies amounts deposited on behalf of each member into each of the sub-accounts (General Fund, Health and Welfare, Pension, etc). She also provides the contractor remittance reports to Local 434 which show the amounts received from each contractor for that particular transfer. The local does not receive a copy of the contractor check, nor does it maintain the bank statements for this account.

The LBCA as described above is an account of Local 434. As such, all receipts and disbursements from that account are subject to the recordkeeping, reporting, and bonding requirements of the LMRDA.

Local 434 does not maintain a record that identifies the date each contractor remittance check was received by Local 434. The contractor remittance reports maintained by the local identify the contractor and the amount of the remittance payment, but not the date the money was actually received. As mentioned in the recordkeeping section above, union receipts records must show the date of receipt. 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.

As a result of the inadequate recordkeeping noted above, Local 434 did not report all money received in the LBCA for 2006. Local 434 reported only \$1.8 million dollars in total receipts in Item 49 of the LM-2 report. According to CPA Mleziva, the \$1.8 million dollars represents the amounts directly deposited by Local 434 into their general fund checking (dues money and other funds received at the Local 434 office) as well as the amounts transferred from the LBCA to the Local 434 general fund checking and to the Local 434 organizing account. However, the total amount of receipts deposited to the

LBCA account was in excess of \$14 million dollars. Regardless of whether the bulk of the funds are eventually disbursed to entities other than Local 434, the entire amount deposited in this Local 434 account was, in fact, received by Local 434 and must be reported on the LM-2.

The last transfer of funds from the LBCA into the general fund checking or the organizing account was recorded as having occurred on December 29, 2006. Additional money was received on December 29<sup>th</sup> and December 31<sup>st</sup> of 2006. The December 29<sup>th</sup> receipts could not have been included in the December 29<sup>th</sup> transfer because the BPAW does not receive the documents necessary to transfer the funds until at least the following day (due to documents being sent by U.S. mail). Because the deposit date of the transfers from the LBCA determines what year the receipt is reported, all money received after December 28, 2006 was not included in Item 49 (Total Receipts) of the LM-2 (including the portion of those receipts that are Local 434 dues money).

In addition, the Form LM-2 requires an itemization page be completed for each entity from which the local receives \$5,000 or more in a reporting period. This itemization requirement would extend to payments into the LBCA from any Local 434 contractor that totaled \$5,000 or more.

Regarding the LMRDA bonding requirements, although the LBCA was in the name of Local 434, and Local 434 officers and employees had access to the account and the authority to complete transactions pertaining to the account, the funds of the Local 434 LBCA were also handled by ||||| of the BPAW, who does not appear to be included under Local 434's bond. Because ||||| handled the funds in the Local 434 Lock Box Clearing Account, she was a constructive employee of Local 434 performing services for Local 434. As an employee who handled funds of Local 434, ||||| was required to have been bonded through the Local by an approved surety company.

During the exit interview, you referred to the LBCA as the "Taft-Hartley Fund." You advised that Local 434 is considering severing the services of the BPAW and handling the transactions of the LBCA entirely within the local. I advised you to review Section 302 of the Labor Management Relations Act of 1947 (Taft-Hartley Act), which specifically addresses the types of employer payments to a labor organization that are prohibited by the Act and therefore not permitted to be handled by a labor organization, including employee benefit payments that are not made directly to an employee benefit trust fund. On January 28, 2008, you stated that it was Local 434's intention to remove the union's name from both the LBCA and the related pass-through

account and put both accounts under the tax identification number of one of the established trust funds. On January 29, 2008, you provided documentation from the bank that both of those accounts had been transferred to the Local 434 Health and Welfare Fund and are now listed as accounts under that fund's tax identification number. OLMS will seek no further action regarding the recordkeeping, reporting, and bonding violations related to the LBCA because the account is no longer a Local 434 account.

I want to extend my personal appreciation to Plumbers and Steamfitters Local 434 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: Mr. Mike Mader, President  
Mr. All Gulke, Vice President  
Mr. Todd Louis, Executive Board