

**U.S. Department of Labor**

Employment Standards Administration  
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July 10, 2009

Mr. James Batson, President  
Retail Wholesale UFCW Local 390  
1636 State Avenue  
Cincinnati, OH 45204

LM File Number: 008-309  
Case Number: [REDACTED]

Dear Mr. Batson:

This office has completed an audit of Retail Wholesale UFCW Local 390 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-Treasurer Lavonzell Richmond on March 31, 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 390's 2006 records revealed the following recordkeeping violations:

1. General Reimbursed Expenses

Local 390 did not retain adequate documentation for expenses incurred by union officers totaling at least \$5,502.00. For example, Local 390 had no vendor receipts for purchases made by officers for office supplies and maintenance work on the union hall. Further, there were no receipts maintained for officers' and members' dues reimbursements and food purchases. Vouchers were missing for many disbursements.

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. Lost Wages

Local 390 did not retain adequate documentation for lost wage reimbursement payments to union officers on 53 separate occasions. The union must maintain records in support of lost wage claims that identify each date lost wages were incurred, the number of hours lost on each date, the applicable rate of pay, and a description of the union business conducted. The OLMS audit found that Local 390 does have a voucher system for lost wages. However, officers did not consistently report the number of hours lost on each date and the applicable rate of pay. On many other occasions, no voucher was maintained at all.

3. Meeting Minutes

According to Article VII, Section 5 of Local 390's bylaws, the Recorder shall accurately report the minutes of each membership and executive board meeting and keep a permanently bound record of all proceedings.

Local 390 did not keep its minutes as required by the bylaws. Minutes were maintained haphazardly in a folder, some on napkins. Many were undated and illegible. Minutes for various years were mixed together and some minutes were lost.

Local 390 has agreed to keep records as required by its bylaws. Furthermore, Local 390 will take care to record authorizations for disbursements when such authorizations take place at meetings.

4. Failure to Record Receipts

Local 390 did not record in its receipts records \$326.57 in interest earned during the audit year on two certificates of deposits. 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.

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.

1. Per Capita Tax

Item 39 (Per Capita Tax) was incorrectly reported as \$32,304 and inflated Item 44 (Total Receipts) by the same amount. Local 390 had no per capita tax receipts during the audit period; therefore, the amount reported in Item 39 should have been zero.

Local 390 filed an amended report to correct this error.

2. Item 15 (Discovery of a Loss or Shortage)

Item 15 (Discovery of a Loss or Shortage) was incorrectly answered "no" on the 2006 report. Item 15 should have been answered "yes" to reflect two break-ins at the local, one occurring in July and the other in late November. Total loss to the union was \$3,975. Information concerning the break-ins should have been reported in Item 56 (Other Information).

An amended Form LM-3 should be filed for 2006 to reflect the loss suffered by the local.

3. Disbursement to Officers

Local 390 did not include some reimbursements to officers totaling at least \$3,641.37 in the amounts reported in Item 24 (All Officers and Disbursements to Officers). It appears the union erroneously reported these payments in Items 48 (Office and Administrative Expense), 50 (Benefits), and 54 (Other Disbursements).

The union must report most direct disbursements to Local 390 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 24 (Office and Administrative Expense).

I am not requiring that Local 390 file an amended LM report to correct Item 24, but Local 390 has agreed to properly report disbursements to officers on all future reports it files with OLMS.

4. 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 390 amended its constitution and bylaws in 1999 but did not file a copy with its LM report for that year.

Local 390 has now filed a copy of its bylaws.

Other Violation

The audit disclosed a violation of LMRDA Section 201(b):

Local 390's Labor Organization Annual Report Form LM-3 for the period ending December 31, 2007 was due March 30, 2008 or 90 days after the end of your organization's fiscal year. The report was received by the Department of Labor on August 1, 2008.

You have promised to file future reports with the Department of Labor by the due date.

Other Findings

1. Refunding Dues to Officers

The audit revealed that Local 390 refunds dues payments made by officers and stewards. On April 2, 2008, International Representative Rick Marshall advised you and OLMS that this practice was against the international union's policy. You agreed to stop this practice.

2. Signing Blank Checks

During the audit, Secretary-Treasurer Lavonzell Richmond advised that you and she sign blank checks. Your union's bylaws in Article IX, Section 3, require that all checks be signed by at least two of the three members of the local audit committee. The two signature requirement is an effective internal control of union funds. Its purpose is to attest to the authenticity of a completed document already signed. However, signing a blank check in advance does not attest to the

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authenticity of a completed check, and negates the purpose of the two signature requirement. OLMS recommends that Local 390 review these procedures to improve internal control of union funds.

I want to extend my personal appreciation to Retail Wholesale UFCW Local 390 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: Ms. Yvette Gill, Financial Secretary-Treasurer