

**U.S. Department of Labor**

Employment Standards Administration  
Office of Labor-Management Standards  
Cincinnati District Office  
36 East Seventh Street  
Room 2550  
Cincinnati, OH 45202  
(513) 684-6840 Fax:(513) 684-6845



January 12, 2009

Mr. Ruford Marcum, President  
Auto Workers Local 2339  
2148 N. State Road 3  
Rushville, IN 46173

LM File Number: 541-277  
Case Number: [REDACTED]

Dear Mr. Marcum:

This office has recently completed an audit of Auto Workers Local 2339 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 Investigator [REDACTED] discussed during the exit interview with you and Recording Secretary John Thomas, on August 28, 2007, 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 2339's 2006 records revealed the following recordkeeping violations:

1. Missing Disbursement Records

The audit disclosed that approximately 90 percent of the required supporting documentation for disbursements made during 2006 was missing from the records. During the audit year, Local 2339 made 200 disbursements via check or electronic funds transfer. However, there were only 12 vendor statements and 8 receipts that could be found in the records. Additionally, although the local's policy is that UAW Form A-136 disbursement vouchers be prepared for all disbursements, there were only 13 completed vouchers in the records.

In short, the lack of required supporting documentation made it nearly impossible to verify the disbursements made during the audit period.

2. Missing Receipt Records

The audit disclosed that Local 2339 failed to maintain adequate supporting documentation for money taken in during 2006. Most of the bank deposit slips were missing from the records and there were only two 2006 check off reports with the union's records. OLMS was able to obtain records from the employer and verified that dues were properly deposited into the union's account.

3. Lost Wages

Local 2339 did not retain adequate documentation for any of the lost wage reimbursement payments to union officers during the audit year. There were no lost wage vouchers in the records for any of the 72 checks in which the local reimbursed lost wages during 2006. 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. During the exit interview, Local 2339 agreed to require lost time claimants to complete UAW Form A-136 disbursement vouchers in the future.

4. Receipt Dates Not Recorded

Entries in Local 2339's monthly summary of cash received journal reflect the date the union deposited money, but not the date money was received. 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 Form LM-3. The Form LM-3 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.

5. Information Not Recorded in Meeting Minutes

Article 46 of the UAW International Constitution requires that expenses be approved at local union meetings. With the exception of a plaque purchased in December 2006, the union's meeting minutes do not reflect that Local 2339's members authorized any of the disbursements made in 2006. Thus, for example, the minutes do not record authorizations for the air conditioner, DVD burner, and fax machine purchased during 2006. Minutes of all membership or executive board meetings must report any disbursement authorizations made at those meetings.

The proper maintenance of union records is the personal responsibility of the individuals who are required to file Local 2339's LM report. You should be aware that under the provisions of Section 209(a) of the LMRDA and Section 3571 of Title 18 of the U.S. Code, willful failure to maintain records can result in a fine of up to \$100,000 or imprisonment for not more than one year, or both. Under the provisions of Section 209(c) of the LMRDA and Section 3571 of Title 18 of the U.S. Code, willful destruction or falsification of records can result in a fine of up to \$100,000 or imprisonment for not more than one year, or both. The penalties provided in Section 209(c) and Section 3571 of Title 18 apply to any person who caused the violations, not just the individuals who are responsible for filing the union's LM report.

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 2339 for fiscal year ending December 31, 2006, was deficient in the following areas:

1. Advances Not Reported As Loans

The audit disclosed that you and Financial Secretary William Collyer were paid advances during the audit year. You received \$1,683.89 in advance payments for lost time to be incurred during future union meetings. Financial Secretary Collyer received an advance payment of \$787.05 for future monthly expense allowances. Advances such as these are considered loans and must be reported in Item 26 (Loans Receivable) in Statement A and Item 53 (Loans Made) in Statement B of the 2006 LM-3 report.

2. Fixed Assets

Local 2339 did not report any of its fixed assets on the 2006 Form LM-3 report. The audit revealed that the local has a desktop computer, a laptop computer, one combined printer/copier/fax machine, two window air conditioners, and three filing cabinets. The book value at the start and end of the reporting period for fixed assets must be reported on Item 29 (Fixed Assets) in Statement A of the LM-3 report.

I am not requiring that Local 2339 file an amended report for 2006 to correct the deficient items, but Local 2339 has agreed to properly report the deficient items on all future reports it files with OLMS.

Other Issues

1. Advances

As noted above, the audit disclosed that Local 2339 paid advances to you and Financial Secretary Collyer in 2006. These types of advances are considered loans.

OLMS strongly discourages labor organizations from making loans to its members, employees, or officers. Furthermore, you should be aware that Section 503(a) of the LMRDA provides that "No labor organization shall make directly or indirectly any loan or loans to any officer or employee of such organization which results in a total indebtedness on the part of such officer or employee to

the labor organization in excess of \$2,000." A willful violation of Section 503(a) is a criminal offense.

2. Voided Checks not Retained

Local 2339 did not retain all voided checks during 2006. Check numbers [REDACTED], [REDACTED], and [REDACTED] were listed as "Void" in the union records, but the voided checks themselves could not be located. It is recommended that the union retain all void and cancelled checks with the union's records as a financial safeguard.

3. Signing Blank Checks

During the audit, OLMS found that Local 2339's checkbook contained three blank checks that had been pre-signed by the local's president. Article 40, Section 1 of the Auto Workers international constitution requires that all checks be signed by the president and financial secretary. 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 authenticity of a completed check and negates the purpose of the two signature requirement. OLMS recommends that Local 2339 review these procedures to improve internal control of union funds.

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,

Lesta A. Chandler  
District Director

cc: David Maddy, Financial Secretary