



May 5, 2010

Mr. Gregory P. Birkemeier, Financial Secretary
Auto Workers, Local 846
35 George Karl Boulevard
Amherst, NY 14221

Case Number: [REDACTED]
LM Number: 015743

Dear Mr. Birkemeier:

This office has recently completed an audit of Auto Workers, Local 846 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 and President James Lakeman on May 3, 2010, 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 846's 2009 records revealed the following recordkeeping violations:

1. General Disbursements

Local 846 did not retain adequate documentation for payments made to the Postmaster General totaling \$86. 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 846 did not retain an itemized receipt for one meal expense of \$516.95. 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.

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.

3. Reimbursed Auto Expenses

Union officers who received reimbursement for business use of their personal vehicles did not retain adequate documentation to support one reimbursement totaling at least \$162 during 2009. The union must maintain records which identify the dates of travel, locations traveled to and from, and number of miles driven. The record must also show the business purpose of each use of a personal vehicle for business travel by an officer or employee who was reimbursed for mileage expenses.

Based on your assurance that Local 846 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 846 for fiscal year ending December 31, 2009, was deficient for the following reason:

Disbursements to Officers

Local 846 did not report the gross wages paid to officers in Item 24, Column D (Gross Salary). Rather, the union erroneously reported the net amount of wages in Column D and subsequently left Line 10 (Less Deductions) blank. In addition, Local 846 did not include some

reimbursements to officers totaling at least \$120 in Item 24, Column E (Allowances & Other Disbursements).

The union must report most direct disbursements to Local 846 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).

I am not requiring that Local 846 file an amended LM-3 report for 2009 to correct the deficient item, but Local 846 has agreed to properly report the deficient items on all future reports it files with OLMS.

I want to extend my personal appreciation to Auto Workers, Local 846 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. James C. Lakeman, President