



1. General Disbursements

The Western New York CAP did not retain adequate documentation for general disbursements and reimbursed expenses paid by the Council totaling at least \$569. For example, former CAP Director ||| purchased gas cards as gifts for the Council's volunteers in which little detail was provided. The names of recipients should be record on a receipt or similar record. In addition, there was insufficient documentation for hotel expenses reimbursed for ||| to UAW Local 686, where only a credit card statement was retained.

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. Meal Expenses

The Western New York CAP Council did not require officers and employees to submit itemized receipts for meal expenses totaling at least \$158. 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.

The Council'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. 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.

Based on your assurance that the Western New York CAP 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 the Western New York CAP for the fiscal year ended December 31, 2010, was deficient in the following areas:

1. Disbursements to Officers and Employees

The Western New York CAP Council did not include payments and reimbursements to officers and employees totaling at least \$8,491 in the amounts reported Item 24 (All

Officers and Disbursements to Officers) and in Item 46 (To Employees). It appears the union erroneously reported these payments in Item 48 (Office and Administrative Expense).

The audit found that the Western New York State CAP Council reimbursed several UAW Local Unions expenses and lost wages for their officers to attend Western New York CAP Council meetings and events. These individuals were also officers and/or employees of the Council. These indirect payments by the Council should be reported on the Council's Form LM-3 next to the officers' name in Item 24, if they are an officer of the Council, or in total in Item 46, if they are not officers. An explanation should be provided in Item 56 (Additional Information) of such transactions. The WNY CAP Council should also advise the local unions to report such disbursements made to these individuals on Schedule 18 (General Overhead) or in Item 48 respectively on their Forms LM-2 or LM-3 since the payments to them are reported on another union's report and the local was reimbursed by the other organization.

In addition, the Council erroneously reported payments to ||| totaling \$3,405 for services rendered in Item 48 when in fact, these payments to them should be reported in Item 46 (To Employees). Furthermore, the WNY CAP Council did not report disbursements to individuals other than officers who receive payments for expenses incurred, including meals, mileage, and other direct or indirect expenses. For example, the union did not report payments reimbursed to former Director ||| in Item 46 for the reimbursement of meeting expenses.

The union must report most direct disbursements to Western New York officers and employees and some indirect disbursements made on behalf of its officers and employees in Item 24 and Item 46, respectively. A "direct disbursement" to an officer or employee is a payment made in the form of cash, property, goods, services, or other things of value. See the instructions for Item 24 and Item 46 for a discussion of certain direct disbursements to officers and employees that do not have to be reported in Item 24 and 46. An "indirect disbursement" to an officer or an employee 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.

2. Employees Receiving More than \$10,000 (Item 17)

The WNY CAP incorrectly answered Item 17 on the Form LM-3. During the reporting period, Consultant ||| received payments, together with affiliates, which totaled more than \$10,000; however the union answered "No" to Item 17. When answering "yes" to Item 17, report in Item 56 (Additional Information) the name and position of each employee and the total amount of the disbursements made to them. In addition, include the names of the other affiliated organizations which made disbursements to or on behalf of the employee, if applicable.

I am not requiring that the Western New York CAP file an amended LM-3 Report for 2010 to correct the deficient items, but the Council has agreed to properly report the deficient items on all future reports it files with OLMS.

I want to extend my personal appreciation to the Western New York CAP 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,

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Investigator

cc: Mrs. Judi Erhardt, Secretary