

U.S. Department of Labor

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March 18, 2008

Mr. Roger Spindler, President
Food & Commercial Workers Local 527
319 1/2 West 3rd Street
Red Wing, MN 55066

LM File Number: 010-688
Case Number: [REDACTED]

Dear Mr. Spindler:

This office has recently completed an audit of UFCW 527 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, Secretary-Treasurer Arlen McKinley, and Bookkeeper Teresa Gadiant on January 30, 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 527's fiscal year ending April 30, 2006, records revealed the following recordkeeping violations:

1. Receipt Dates not Recorded

Entries in Local 527's receipts records sometimes reflected the date the union deposited money, but not the date money was received. For instance, the only record found for a \$383.94 receipt from "Region 6" and a \$146 receipt from "BRAC" was an October 2005 deposit slip. The deposit slip lists the source of the money and the amount of the two receipts, but it does not list the date of receipt. 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-3. The 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 reporting some receipts for a different year than the one in which they were received.

2. Failure to Record Source of Receipts

UFCW 527 occasionally receives money from the sale of t-shirts and other union memorabilia. For example, on January 30, 2006, \$122 was deposited into the local's savings account. Financial records list this receipt as, "Shirt, hat, bag sales." Though these items were sold to individual members, no record detailed the individual sources of the \$122. 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.

3. Meeting Minutes Not Found

Local 527 membership minutes often include information concerning financial matters. As an example, the meeting minutes reflect that cash prizes are given away at membership meetings. The name of all cash recipients and the total paid to them is recorded in the membership meeting minutes. However, regular membership meeting minutes were not found for January, June, and October 2005. During the exit interview, Bookkeeper Teresa Gadiant confirmed that membership

meetings were held, and minutes were taken in January, June, and October. However, the minutes could not be located for the audit. The membership meeting minutes must be maintained in order to support the disbursements reported on the LM-3 report.

Based on your assurance that Local 527 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 527 for fiscal year ending April 30, 2006, was deficient in the following areas:

1. Investments Reported as Cash

Local 527 improperly included the value of two mutual fund accounts in Item 25 (Cash) of Statement A (Assets and Liabilities). For LM reporting purposes, OLMS considers mutual funds to be an investment reportable in Item 28 (Investments).

As a result of reporting the mutual funds as cash in Item 25, Local 527 also reported the redemption of mutual fund shares in the same manner as a transfer between cash accounts – the redemption affected the cash account balances, but was not recorded as a receipt. However, since mutual funds are investments, the redemption of shares represents a receipt that should be reported in Item 42 (Sale of Investments & Fixed Assets). Item 42 reported \$0 in receipts. The audit revealed that Local 527 redeemed shares worth \$35,000 from its Ameriprise Financial accounts. The \$35,000 in redemptions must be included in Item 42.

2. Investments and Dividends

According to the LM-3 instructions, Item 41 (Interest and Dividends) is to include, “the total amount of interest and dividends received by your organization from savings accounts, bonds, mortgages, loans, investments, and all other sources.” During the audit period, Local 527 received approximately \$2,153.63 in interest and dividends from savings and mutual fund accounts. However, Item 41 only reports

\$1,563. According to Bookkeeper Gadiant, the \$1,563 reported in Item 41 is the result of "netting" the \$2,139.62 paid in mutual fund dividends with the loss in market value of the mutual funds. However, since Statement B reports all cash flowing in and out of your organization, "netting" is not permitted. All interest/dividends received must be reported regardless of market fluctuation. Any loss or gain in market value of your investments will be captured in the investment balances reported in Item 28 (Investments).

As just mentioned, \$2,139.62 was paid in dividends during the course of the audit year. These dividends were automatically reinvested back into the mutual fund accounts to purchase more shares. Though automatically reinvesting dividends resulted in the purchase of over \$2,100 worth of new mutual funds shares, no disbursements were reported in Item 52 (Purchase of Investments & Fixed Assets). Regardless of whether it was done automatically, reinvested dividends are disbursements that must be included in Item 52.

4. Dues Receipts

The dues figure Local 527 reported in Item 38 (Dues) of Statement B is the total amount of dues deposited into Local 527's bank accounts rather than the total amount of dues. According to the LM-3 instructions, "Under Statement B, receipts must be recorded when money is actually received by the labor organization and disbursements must be recorded when money is actually paid out by the labor organization."

As a result of using the deposit figure rather than the receipts figure, Item 38 improperly included three dues receipts from the previous fiscal year totaling \$128. Using the deposit figure in Item 38 also resulted in the improper exclusion of one April 2006 receipt that wasn't deposited until the following fiscal year.

5. Disbursements to Officers

Local 527 did not include some reimbursements to officers totaling at least \$1,740 in the amounts reported Item 24 (All Officers and Disbursements to Officers). It appears these payments were erroneously reported in Item 48 (Office and Administrative Expense).

Most direct disbursements to officers and certain indirect disbursements made on behalf of officers must be reported 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).

As mentioned above, the audit of Local 527 was limited to the financial information contained on the LM-3 report for period ending April 30, 2006. Consequently, all deficiencies reported above pertain to the LM-3 filed for fiscal year ending April 30, 2006. However, Local 527 has filed a more recent LM report with the Department of Labor for fiscal year ending April 30, 2007. A review of the 2007 report found that it contained the same deficiencies as the 2006 report. In addition, the cash figure reported on the 2007 report does not reconcile. That is, cash at the start of the reporting period (Item 25(A)) plus total receipts (Item 44) minus total disbursements (Item 55) does not equal cash at then end of the reporting period (Item 25(B)).

Local 527 must file an amended Form LM-3 for its most recently completed fiscal year, period ending April 30, 2007, to correct the deficient items discussed above. I provided you with a blank form and instructions, and advised you that the reporting forms and instructions are available on the OLMS website (www.olms.dol.gov). The amended Form LM-3 should be submitted to this office at the above address as soon as possible, but not later than April 3, 2008. Before filing, review the report thoroughly to be sure it is complete, accurate, and signed properly with original signatures.

Other Issues

As I discussed during the exit interview with you and Mr. McKinley, the audit revealed that Local 527 reimbursed its stewards and officers the entire year's worth of dues for attending at least ten of the twelve regular membership meetings. The authorization for this expenditure was found in the "Rules Governing UFCW 527." However, Local 527 records show that stewards and officers still received partial reimbursements of their dues if they attended less than ten meetings, though this policy is not outlined in the "Rules Governing UFCW 527." In order to clarify 527's

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policy regarding partial dues reimbursement and avoid any possible confusion, OLMS recommends that you adopt a written policy for partial dues payments.

I want to extend my personal appreciation to UFCW 527 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: Arlen McKinley, Secretary-Treasurer