

U.S. Department of Labor

Employment Standards Administration
Office of Labor-Management Standards
Minneapolis Resident Investigator Office
900 Second Avenue South, Suite 450
Minneapolis, MN 55402
(612)370-3111 Fax: (612)370-3107



May 19, 2008

Ms. Tiffany Watkins, President
Hotel Employees, Restaurant Employees Local 517
1515 Harding Court
Eau Claire, WI 54701

LM File Number: 024-452
Case Number: [REDACTED]

Dear Ms. Watkins:

This office has recently completed an audit of UNITE HERE Local 517 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, Treasurer Robin Rosentreter, Steward Tami Schmitt, Secretary Deb Heisz, and Steward Sherry Wold on May 1, 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 of the LMRDA and Title 29 of the Code of Federal Regulations (C.F.R.) Section 403.7 require, among other things, that labor organizations maintain adequate records for at least five years after reports are filed by which the information on the reports can be verified, explained and clarified. Pursuant to 29 C.F.R. Section 458.3, this recordkeeping provision of the LMRDA applies to labor organizations subject to the requirements of the Civil Service Reform Act of 1978 (CSRA) as well. Therefore, as a general rule, labor organization must retain 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.

1. Receipt dates not recorded

Entries in Local 517's receipts and disbursements ledgers do not accurately reflect the date money was received. Receipt records appear to reflect the date money was deposited not the date it was received. For example, a dues check-off check from Sodexo received in December 2006 was not recorded in the receipts journal until January 2007 when the check was deposited.

The Labor Organization Annual Report (Form LM-3) required to be filed by Local 517 must be prepared using the cash method of accounting. As stated on page 11 of the LM-3 instructions, receipts must be recorded when money is actually received by the labor organization and disbursements must be recorded when the money is actually paid out by the labor organization. Failure to record the date money was received or disbursed could result in reporting some receipts and disbursements for a different year rather than the one in which they were received or disbursed.

2. Disposition of Property

Local 517 gave away approximately \$1,300 worth of prizes such as concert tickets and gift certificates at the summer picnic in 2007 and \$1650 in cash bonuses at the 2006 Christmas party, but did not maintain records that identified the recipients of cash and prizes.

While it is not necessary to itemize every recipient of a prize in item 56 (Additional Information) of the LM-3 report, a record must be maintained that verifies the identity and number of the recipients of prizes given away. In the instance of cash prizes, the union must retain a record that identifies the name and amount disbursed to each person.

Based on your assurance that Local 517 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 (LM-3) filed by Local 517 for fiscal year ending December 31, 2006, was deficient in the following areas:

1. Item 15 – Disposition of Assets

Item 15 (Disposition of Assets) should have been answered, "Yes," because Local 517 gave away cash bonuses totaling at least \$1,650 and additional prizes at the Christmas party. Additionally, Local 517 gives away cash door prizes at monthly membership meetings. The type and value of any property received or given away must be reported in the additional information section of the LM report along with the identity of the recipient(s) or donor(s) of such property. The union does not have to itemize every recipient of such giveaways by name. Recipients can be described by broad categories, if appropriate, such as "members" or "new retirees."

2. Disbursements to Officers

Local 517 did not include some reimbursements to officers totaling at least \$2,100 in the amounts reported Item 24 (All Officers and Disbursements to Officers). It appears the union erroneously reported these payments in Item 48 (Office and Administrative Expense) and Item 54 (Other Disbursements). For example, former Secretary Treasurer Cindy Andrus, was reimbursed at least \$450 for monthly Internet expenses, but \$0 was reported in Column E (Allowances and Other Disbursements) next to her name.

Also, Local 517 did not report the names of some officers and the total amounts of payments to them or on their behalf in Item 24 (All Officers and Disbursements to Officers). Local 517 has seven officers, but only reported six officers. For example, Vice President Carol Horndorf received a salary, but was not listed in Item 24. The

union must report in Item 24 all persons who held office during the year, regardless of whether they received any payments from the union.

The union must report most direct disbursements to Local 517 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).

3. Cash

It appears that the cash figures reported in Item 25 (Cash) are not the cash figures according to the union's books after reconciliation to the bank statements. For example, Item 25A (Start of the Reporting Period Cash) states that cash was \$0. The bank statements for the checking account, savings account, and certificates of deposit show that Local 517 had \$15,926.20. The audit revealed that Local 517's records show that it had \$14,274.40 in its checking account, savings account, and certificates of deposit as of January 1, 2007.

The instructions for Item 25 state that the union should obtain account balances from its books as reconciled to the balances shown on bank statements. Additionally, cash reported at the beginning of the reporting period in Item 25A should equal Item 25B (End of the Reporting Period Cash) from the LM-3 report for the previous fiscal year.

Additionally, Local 517's cash figures for the reporting period do not balance (reconcile). Specifically, 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 the end of the reporting period (Item 25(B)). Either one or more of the reported figures in these items is inaccurate or was blank and must be corrected.

4. Dues

Dues receipts of \$27,024 were erroneously reported in Item 38 (Dues). The audit revealed that Local 517 collected at approximately \$25,273 in dues during 2006. As mentioned above under recordkeeping violations, it appears receipt records reflect the date money was deposited not the date it was received. This may have led to an error in your calculation of dues receipts for the LM-3 report.

Local 517 must file an amended Form LM-3 for fiscal year ending December 31, 2006, to correct the deficient items discussed above. Additionally, during the audit Treasurer Robin Rosentreter informed me that the LM-3 for fiscal year ending December 31, 2007 had not been filed with OLMS. I advised her 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 May 30, 2008. Before filing, review the report thoroughly to be sure it is complete, accurate, and signed properly with original signatures.

Other Issues

1. Cash Disbursements for Christmas Bonus

During the audit, you advised that members who attended at least four membership meetings during 2006 received a \$50 cash bonus at Local 517's Christmas party. Former Secretary-Treasurer Cindy Andrus received \$1,600 from RCU Bank by writing a check to RCU for cash.

OLMS recommends that all disbursements be by check directly to the individual receiving the funds in order to ensure internal control over disbursements. As previously noted, since the payee of these checks was an officer (Cindy Andrus), the cash bonuses are considered direct disbursements for reporting purposes and must be included in the amount reported next to Andrus' name in Item 24, Column F (Allowances and Other Disbursements). Note that a check made payable to "cash" and cashed by an officer must also be reported as a payment to that officer. OLMS recommends that Local 517 review these procedures to improve internal control of union funds.

2. Withheld Taxes/Payroll Deductions

Local 517's records show that you did not deduct taxes from payments to members/employees for lost time payments in 2006. While this office has no authority to interpret the state or federal tax code, I recommend you contact the Internal Revenue Service and obtain the following two publications: Circular E, Employer's Tax Guide (Publication 15) and Supplemental Employer's Tax Guide (Publication 15-A). These two publications, as well as other information about employment taxes for small organizations, can be found on the IRS website at www.irs.gov. Circular E discusses employees, taxable wages and compensation, the calculation of withholding taxes, and FUTA. The Supplemental Employer's Tax Guide contains employment tax information on employees of exempt organizations (the IRS categorizes labor organizations as tax exempt organizations under the Internal Revenue Code 501(c) (5)).

I also suggest you determine Local 517's state withholding tax, state unemployment insurance, and workers compensation requirements by contacting, respectively, the Wisconsin Department of Revenue, the Wisconsin Department of Unemployment Insurance, and the Wisconsin Department of Labor & Industry.

I want to extend my personal appreciation to UNITE HERE Local 517 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: Robin Rosentreter, Treasurer