



May 18, 2011

Mr. Cody Rundle, Secretary Treasurer
United Transportation Union Local 1358
314 S. Cedarwood Drive
Danville, IL 61832-1535

Case Number: [REDACTED]
LM Number: 007782

Dear Mr. Rundle:

This office has recently completed an audit of United Transportation Union Local 1358 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 on May 11, 2011, 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 1358's 2009 records revealed the following recordkeeping violations:

1. Failure to Record Receipts on a Union Record

Local 1358 failed to maintain any union record that recorded the receipts of the union. The

union must maintain a receipts record, such as a receipts journal, that includes an adequate identification of all money the union receives. The record should show the date and amount received, and the source of the money.

2. Meal and Gasoline Expenses

Local 1358 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. Local 1358 records of gasoline expenses did not always have the names of the union officers incurring the charges. Union records of gasoline expenses must include the names of all persons incurring these charges.

3. Lack of Authorization for Salary and Other Disbursements

Local 1358 did not maintain records to verify that the salaries and other disbursements reported in Item 24 (All Officers and Disbursements to Officers) on the LM-3 was the authorized amount. The union must keep a record, such as meeting minutes, to show the level of salary, allowances, and expenses (if any) that the union's officers are entitled.

Based on your assurance that Local 1358 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 1358 for the fiscal year ended December 31, 2009, was deficient in the following areas:

1. Dues Receipts and Per Capita Tax

Local 1358 did not correctly report the amount of dues in Item 38 (Dues) and did not correctly report the amount of per capita tax in Item 47 (Per Capita Tax) of the LM-3. The International Union received the dues checkoff directly from the employer. Local 1358 did not receive any portion of the \$47,793 per capita tax that the International Union retained; therefore, this amount should not have been included in Items 38 and 47 of the LM-3.

According to the LM-3 instructions, if an intermediate or parent body labor organization receives dues checkoff directly from an employer on behalf of a union, do not report in Item 38 the portion retained by that organization for per capita tax and do not report in Item 47 the per capita tax retained.

2. Disbursements to Officers

Local 1358 did not include a salary disbursement of \$300 to President Mark Pesek on September 22, 2009, in the amounts reported in Item 24 (All Officers and Disbursements to Officers). It appears the union erroneously reported this payment in Item 54 (Other Disbursements).

The union must report most direct disbursements to Local 1358 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. Officer Salaries and Other Disbursements

Local 1358 did not properly report the gross salary and other disbursements of each officer in Item 24. Certain officers receive monthly payments from the union to compensate them for lost time and expenses incurred while conducting union business. All disbursements to the officers were recorded on the LM-3 in Column E (Other Disbursements). However, these disbursements from the union should have been allocated between Column D (Gross Salary) and Column E (Other Disbursements). The instructions for the LM-3 require that disbursements for lost time or time devoted to union activities be included in Column D of Item 24.

4. Pay an Employee More Than \$10,000

Item 17 (Pay any employee salary, allowances, and other expenses which together with any payments from affiliates, totaled more than \$10,000?) should have been answered, "No," because the union does not have any employee on the payroll. Although the union pays the local chairman more than \$10,000 for wages and expenses, the local chairman is not an employee but an officer of the union. All disbursements to officers are reported in Item 24.

As we discussed during the exit interview, Local 1358 must file an amended Form LM-3 to correct the deficient items discussed above. As the union has already filed the LM-3 for fiscal year 2010, Local 1358 can file an amended report for fiscal year 2010 to correct the above items that are also deficient in the 2010 report. I explained to you the filing procedures and the availability of filing software on the OLMS website (www.olms.dol.gov). The amended 2010

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Form LM-3 must be filed as soon as possible, but not later than June 10, 2011. Before filing, review the report thoroughly to be sure it is complete and accurate, and properly signed with electronic signatures.

I want to extend my personal appreciation to United Transportation Union Local 1358 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,

A solid black rectangular box redacting the signature of the investigator.

Investigator

cc: Mr. Mark Pesek, President