

U.S. Department of Labor

Employment Standards Administration
Office of Labor-Management Standards
San Francisco District Office
71 Stevenson Street, Suite 440
San Francisco, CA 94105
(415) 848-6567 / FAX: (415) 848-6555



February 11, 2005

President Ed Peralta
APWU, Local 73
1630 Oakland Road, #A-107
San Jose, CA 95131

Re:

Dear Mr. Peralta:

This office has recently completed an audit of American Postal Workers Union, Local 73 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 February 11, 2005, 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.

Record Keeping Violations

Title II of the LMRDA establishes certain reporting and record keeping requirements. Section 206 requires, among other things, that adequate records be maintained 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, all records used or received in the course of union business must be retained. This includes, in the case of disbursements, not only the retention of original bills, invoices, receipts, and vouchers, but also adequate additional documentation, if necessary, showing the nature of the union business requiring the disbursement, the goods or services received, and the identity of the recipients of the goods or services.

The following record keeping violations were revealed during the audit of Local 73's 2003 records:

Officer and Employee Expenses

Union officers and employees failed to retain adequate documentation for reimbursed expenses, and for expenses charged to union credit card. The date, amount, and business purpose of every expense must be recorded on at least one union record. In addition, the names of individuals present for meal expenses paid for by the union and the locations (names of restaurants) where meal expenses were incurred must also be recorded.

With respect to documentation retained in support of specific disbursements (including those in payment of credit card charges), the record retention requirement includes not only the retention of original bills, invoices, receipts, and vouchers, but also additional documentation if necessary.

showing the nature of the union business requiring the disbursement, the goods or services received, and all the recipients of the goods or services. In most instances, this documentation requirement can be most easily satisfied with a sufficiently descriptive receipt. If a receipt is not sufficiently descriptive, a note can be written on it providing the additional information. An exception may be made only in those cases where 1) other equally descriptive documentation has been maintained, and 2) there is evidence of actual oversight and control over disbursements. For the audit year, Local 73 maintained 135 receipts for the 209 credit card charges. Moreover, many checks were issued without supporting documentation.

As agreed, provided that Local 73 maintains adequate documentation for its disbursements in the future, no additional enforcement action will be taken regarding this violation.

Reporting Violations

The CAP disclosed a violation of LMRDA section 201(b), because the Labor Organization Annual Report (Form LM-2) filed by Local 73 for fiscal year ending December 31, 2003 was deficient in the following area:

LM-2 Schedule 9 (All Officers and Disbursements to Officers)

Local 73 failed to include some reimbursements to officers and employees in the amounts reported in Schedule 9 (All Officers and Disbursements to Officers). Such payments appear to have been erroneously reported in Schedules 13 (Office and Administrative Expenses) and Schedule 15 (Other Expenses).

Direct disbursements to officers and employees for reimbursement of expenses incurred while conducting union business must be reported in Column F of Schedule 9 (Disbursements for Official Business). In addition, indirect disbursements made to another party (such as a credit card company) for business expenses incurred by union personnel must also be reported in Column F of Schedule 9. However, indirect disbursements for business expenses incurred for transportation by a public carrier (such as an airline) and for temporary lodging expenses incurred while traveling on union business must be reported in Schedule 13 (Office and Administrative Expenses). Any direct or indirect disbursements to union personnel for expenses not necessary for conducting union business must be reported in Column G of Schedule 9 (Other Disbursements).

It will be necessary for Local 73 to file amended LM-2 report for 2003 to correct the deficient item discussed above. The necessary reporting forms and instructions are enclosed for your use. You may also use the new electronic forms software available from OLMS to complete the amended reports. One copy of the amended report should be submitted to this office at the above address as soon as possible, but no later than 03/04/05. Before mailing, review the report thoroughly to be sure it is complete, accurate, and signed properly with original signatures.

Other Issues

Countersignature (Signing Blank Checks)

During the audit, you advised that Treasurer Baccat signs blank checks in advance. Your union's bylaws require that all checks be signed by either the president, treasurer, or recording secretary. The countersignature requirement is an effective internal control of union funds. Its purpose is to attest to the authenticity of a completed document already signed. However, countersigning a blank check in advance does not attest to the authenticity of a completed check, and completely circumvents and undermines the whole purpose of the countersignature requirement. You may want to revise your check disbursement method.

Printing Checks With The Same Check Number

During the audit, it was discovered that in 1999 two checks were printed with the same check number and were payable to two different payees in two different amounts. Although this proved to be an isolated incident, it is strongly advisable that the Quick Books program be disabled so it cannot print checks with the same check number. This modification would help protect the integrity of the union.

I want to extend my personal appreciation for your and your entire staff's cooperation and courtesy during this compliance audit. If we can be of any assistance in the future, please do not hesitate to call.

Sincerely,

A handwritten signature in black ink, appearing to be "F(C)", written over a horizontal line.

Investigator