



March 21, 2005

APWU Local 323  
Trish Hicks, President  
5151B Atlanta Highway  
Montgomery, Alabama 36109

RE: 2

Dear Mrs. Hicks:

This office recently completed an audit of APWU Local 323 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 as Amended (LMRDA). As discussed in the exit interview with you on March 9, 2005, the following problems were disclosed during the CAP. The matters below are not an exhaustive list of all possible problem areas since the audit conducted was limited in scope.

The CAP disclosed the following violations:

#### Record Keeping

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.

During the audit year there were a number of record keeping violations committed by Financial Secretary Valerie Wright and the manner in which she chose to keep records. The following record keeping violations were revealed during the audit of Local 323's 2003 records:

1. There were no bank statements found for the three certificates of deposit at 4 The only records kept were the 1099 forms used for tax purposes.

2. 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. Some vouchers submitted by union personnel for lost wages do not identify the union business conducted that required lost wages be incurred. There were a number of occasions when there was no documentation reflecting the time taken off work for which the officer was paid for lost time. The only way for that to be verified during the audit was to retrieve those records which were kept by the employer. The lost wage claims must identify each date lost wages were incurred, the number of hours lost on each date, the applicable rate of pay, and a description of the union business conducted.

3. After discovering significant discrepancies in the amounts of money recorded on the union records as compared to checks clearing the bank, it was determined that there were a number of disbursements made from the general fund account which were not recorded by Wright. If disbursements are made, they must be recorded on a disbursements journal by the union.

It is the past practice of Local 323 to make regular monthly transfers into the <sup>4</sup> convention fund account from the <sup>4</sup> general fund account. In 2003, there were not monthly transfers made regularly. They were all made on December 31, 2003 which created a negative book balance in excess of \$14,000.00 in the general fund account. Those checks were not deposited until January and February of 2004. It is recommended that the deposits be made regularly and not at the end of the year creating a negative balance in the books.

It was discovered that checks and records were kept in the trunk of Wright's vehicle and at Wright's residence. Title II requires that certain records be kept and it is the practice of Local 323 to keep all pertinent records at the Local 323 union hall where facilities are available to keep those records secure. Records are not considered secure in the trunk of the financial secretary's vehicle or at her residence for any extended period. The audit had to be significantly delayed so that Wright could produce some of the records necessary to proceed which she had at her residence and in her vehicle. It is recommended that all records be kept in the secure cabinets at the **union hall for security and proper maintenance of all union records.**

There were checks written out of sequence and written to vendors and officers which were not delivered or sent for several months. In a review of outstanding checks, there were checks which to this day remain outstanding which were written during the first part of 2003. A review of records showed outstanding checks totaling in excess of \$33,000.00 for the audit year. As explained by Hicks, there were a number of checks written which were never sent to the payee for payment. In the future, the union should not carry checks outstanding for such a long period of time. If a check is written and not presented for payment within a time period of six months, the union should find out why, stop payment on the check, and reissue another for payment to clear the union's books of the outstanding check.

The proper maintenance of union records is the personal responsibility of the individuals who are required to file Local 323's LM report, which in this case were Valerie Wright and Trish Hicks even though Wright was the financial secretary responsible for the day to day keeping of records. You should be aware that Section 206 of the LMRDA provides for a fine of not more than \$10,000 or imprisonment for not more than one year, or both, for willful failure to maintain records. Section 209(c) of the LMRDA provides for a fine of not more than \$10,000 or imprisonment for not more than one year, or both, for willful destruction or falsification of records, and applies to any person (not just the individuals who are responsible for filing the union's LM report). As discussed in the exit interview with Trish Hicks, Carla Tullie-Davis, and David Chadwick, APWU Local 323 will keep the adequate records in the future.

### Reporting

The CAP disclosed a violation of LMRDA section 201(b), because the Labor Organization Annual Report (Form LM-3) filed by Local 323 for fiscal year ending December 31, 2003 was deficient in the following areas:

1. All direct disbursements to your union's officers and some indirect disbursements made by your organization on behalf of its officers must be included in the amounts reported in item 24. A "direct disbursement" to an officer is a payment made by your organization to an officer in the form of cash, property, goods, services, or other things of value. An "indirect disbursement" to an officer is a payment made by your organization to another party (including credit card companies) 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 Expenses).
  - A. On the 2003 LM-3 report, the amount carried in item 24(d) was not consistent with the amount of money carried on the union's books, verified during the CAP and reported on IRS Form W-2.
  - B. The total amount of money carried in item 24(e) (allowances and other disbursements) was carried over to item 46 (to employees). Local 323 does not have any employees, only union officers.
2. Item 15 was checked YES indicating that there was a loss or shortage of funds discovered. In the explanation and during the organizational interview, it was determined that the loss of funds identified on the LM-3 report was money that was not taken in regular increments from the checks of union members for dental coverage. That money should not have been carried as lost because in fact it was not received. The money paid for dental coverage should have been recorded as an expense and the money which was not received from the union members was not lost because it was never received. If the union needs to go back and recover that money, then it should be properly recorded in the union records at the time it was actually received.

3. Item 26 showed an \$18,220.00 amount in the column for end of the year loan receivable. In discussions with Hicks, it was determined that the amount in that column reflected the amount of money owed by union members for dental insurance. That amount of money had been paid by the union for dental insurance and was to be paid by the member by payroll deduction. Due to an administrative oversight, the money was never taken from the members. Therefore, that money was not collected by the union for the dental expense. That money was carried as a loan on the LM-3. The LM-3 should have reflected the money spent by the union for dental insurance as a disbursement. The amount of money the members paid for the union should be carried as a receipt at the time the union members paid for the insurance.

4. In my review of 2001, 2002, and 2003 LM-3 reports, the amount shown for fixed assets is \$0. In the organizational interview and in other conversations with Hicks and Tullie-Davis, it was determined that Local 323 does in fact have fixed assets and purchased a laptop computer during 2003. Those items, such as computers, telephones, tables, chairs and other furniture items have a value and should be carried in item 29 as fixed assets. It appears that Wright carried the purchase of fixed assets in item 48, "Office and Administrative Expenses" instead of properly including them in item 52, "Purchase of Investments and Fixed Assets".

I am not requiring that Local 323 file an amended LM-3 report for 2003 to correct the deficient items, but as agreed, your union will properly report the deficient items on all future reports filed with this agency.

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

F(C)

Investigator

cc: Carla Tullie-Davis, Recording Secretary  
David Chadwick, Vice President