

U.S. Department of Labor

Employment Standards Administration
Office of Labor-Management Standards
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February 1, 2005

Anthony Russo, Business Manager
Plumbers & Pipefitters Local 138
40 Poplar Street
Danvers, MA 01923-2249

Re: **2**

Dear Mr. Russo:

This office has recently completed an audit of Plumbers & Pipefitters Local 138 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 during the exit interview with you and Eileen Russo on January 28, 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.

The CAP disclosed a violation of LMRDA section 201(b), because the Labor Organization Annual Report (Form LM-2) filed by Local 138 for fiscal year ending December 31, 2003 was deficient in the following areas:

1. The names of some officers who held office during the year were not reported in Schedule 9 with the total amount of payments to or for them, namely the vice president and executive board members. The names of all persons who held office during the year must be reported in Schedule 9 regardless of whether or not they received any payments from the union. An officer is defined in Section 3(n) of the LMRDA as "any constitutional officer, any person authorized to perform the functions of president, vice president, secretary, treasurer, or other executive functions of a labor organization, and any member of its executive board or similar governing body."
2. Local 138 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 Schedules 9 and 10 (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 Schedules 9 and 10. 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 Schedules 9 and 10 (Other Disbursements).

3. Disbursements for the operation and maintenance of union automobiles were not properly reported. The LM-2 instructions provide two methods for reporting automobile related expenses. Direct and indirect disbursements for the operation and maintenance of union owned and leased vehicles and the operation and maintenance of vehicles owned by union personnel (including gasoline, repairs, and insurance) must be reported in Schedules 9 and 10. The expenses may be divided and reported in columns F and G based on mileage (supported by mileage logs) driven on union business compared with mileage in personal use. Alternatively, rather than allocating the expenses between columns F and G, if 50% or more of an officer's or employee's use of a vehicle was for official business, the union may report all of the expenses relative to the vehicle assigned to the officer or employee in column F of schedule 9 or 10 with an explanation in Item 75 (Additional Information) that the vehicle was used part of the time for personal business. Similarly, if a vehicle assigned to an officer or employee was used less than 50% of the time for business, all of the expenses relative to that vehicle may be reported in Column G with an explanation in Item 75 that the vehicle was used partly for official business.

I am not requiring that Local 138 file an amended LM-2 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

The CAP also disclosed a violation of LMRDA section 201(a) which requires that unions submit a copy of their current constitution and bylaws with its LM report when bylaw changes are made. Local 138 amended its constitution and bylaws in 2002, but a copy of the constitution and bylaws was not filed with Local 138's LM-2 report for that year. Two copies of Local 138's constitution and bylaws have now been filed.

During the audit, you advised that it is Local 138's practice that you are the sole signatory on all union checks and that oftentimes your signature stamp is used on the checks. You indicated that no one but you reviews the checks before they are issued. A second signature requirement is an effective internal control of union funds. Its purpose is to attest to the authenticity of a completed document already signed. You may want to revise this aspect of your check disbursement procedures.

I strongly recommend that you make sure that this letter and the compliance assistance materials that were provided to you are passed on to your successor at whatever time you may leave office.

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,

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7(C)
Investigator