

**U.S. Department of Labor**  
Washington District Office

Employment Standards Administration  
Office of Labor-Management Standards  
800 North Capitol Street, NW, Suite 120  
Washington, DC 20002-4244



Telephone: (202) 513-7300  
Facsimile: (202) 513-7301

August 10, 2005

Clinton Lucas, Jr., Recorder  
United Food & Commercial Workers, AFL-CIO  
Local 94-C  
608 Seventh Street  
Shenandoah, VA 22849-1425

Dear Mr. Lucas:

This office has recently completed an audit of the United Food & Commercial Workers (UFCW), Local 94-C 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 President Kenneth Miller and you on June 3, 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 Violation**

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 94-C's 2004 records:

#### **1. Officer Expenses**

Union officers failed to retain adequate documentation for reimbursed expenses. Receipts are required to be kept for all purchases. 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, 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.

## 2. Adequate Documentation

Adequate documentation was not maintained for some purchases. If goods or services were purchased from a third party, receipts are required to be kept. The union's records should also include the date, amount, and business purpose for these purchases.

## 3. Record Retention

During the audit, the union advised that records regarding the distribution and return of raffle tickets were discarded. As stated above, Section 206 of the LMRDA requires that all union records be maintained for at least five years.

## 4. Receipts

Local 94-C failed to record initiation fees in its records. In addition, some dues deposits did not match the amount of dues deducted per the check off list because the employer had deducted money that the union owed them. Union receipts records must include an adequate identification of each receipt of money. The records should show the exact date that the money was received, the identity of the source of the money, and the individual amount received from each source.

## 5. Lost Wages

Union officers failed to record the date and/or purpose of some lost wage claims on records submitted for such expenses. Records that identify the date, number of hours lost, rate of pay, and business purpose (reason) for all lost wages must be retained.

As agreed, provided that Local 94-C maintains adequate documentation for its disbursements in the future, no additional enforcement action will be taken regarding this violation.

## Reporting Violations

The audit disclosed a violation of LMRDA section 201(b), because the LM-3 filed by Local 94-C for fiscal year ending June 30, 2004 was deficient in the following area:

### 1. Reporting of Receipts and Disbursements

The union added descriptions "transfer of funds" in both the cash receipts and cash disbursements sections of Statement B of the LM-3 report and reported an amount next to each of these descriptions. The purpose of Statement B is to report the flow of all cash in and out of your organization during the reporting period. Transfers of funds between union accounts should therefore not be included in Statement B or anywhere else on the LM-3 report.

### 2. Officers Not Listed

The names of some officers who held office during the year were not reported in item 24 with the total amount of payments to or for them. The names of all persons who held office during the year must be reported in item 24 regardless of whether or not they received any payments from the union.

### 3. Some Payments to Officers Not Properly Reported

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).

It will be necessary for Local 94-C to file an amended LM-3 report for fiscal year ending June 30, 2004 to correct the deficient items discussed above. You may use the new electronic forms available from OLMS to complete the amended report. The electronic forms are available on the OLMS website: [www.olms.dol.gov](http://www.olms.dol.gov). The amended report should be submitted to this office at the above address as soon as possible, but no later than 08/31/05. Before mailing, review the reports thoroughly to be sure they are complete, accurate, and signed properly with original signatures.

### Other Issues

1. The audit disclosed a violation of LMRDA section 201(a) which requires that unions submit a copy of their current bylaws with its LM report when bylaw changes are made. Local 94-C amended its constitution and bylaws in 2000, but a copy of the bylaws was not filed with Local 94-C's LM-3 report for that year. A copy of Local 94-C's bylaws has now been filed so no further action will be taken with regard to this issue.
2. During the audit, it was discovered that union checks were written to officers who then cashed the checks and used the cash to purchase items for union business. These instances include toys for underprivileged children and a retirement gift for a union official. We

strongly recommend that these types of purchases be made with checks written from the union to the vendor where the purchase was made. This would be a more effective control of union funds.

3. During the audit, it was discovered that union checks were written to officers to compensate them for time that they appeared to spend on union related matters. These payments were not salary payments and no time was lost from the employer on these occasions. One of these checks indicated that it was for lost time and others indicated that they were for an audit. The union advised that these payments were approved by the membership. The membership meeting minutes mentioned the check numbers underlying the payments. However, the minutes do not indicate what was actually approved by the membership. We recommend that the meeting minutes indicate the amount of these payments and the reasons for which the payments are made.

I strongly recommend that you make sure that this letter and the compliance assistance materials that were provided to you are passed on to yours and Mr. Miller's successors at whatever time you may leave office.

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

Sincerely,

FCC

cc: Kenneth Miller, President