

U.S. Department of Labor

Employment Standards Administration
Office of Labor-Management Standards
Charlotte Resident Office
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Charlotte, NC 28271
(704) 845-2775



September 29, 2005

Clifford Galloway, Treasurer
Longshoremens Local 1838
P.O. Box 10007
Southport, NC 28461

Re: . . . 2

Dear Mr. Galloway:

This office has recently completed an audit of Local 1838 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 President Rose on August 18, 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 audit revealed a violation of LMRDA Section 502, which requires that the union's officers and employees be bonded for no less than 10% of the total funds handled by those individuals or their predecessors during the preceding fiscal year. Local 1838's officers and employees were bonded for a sufficient amount, but the policy had a \$5,000 deductible, which is prohibited. The union acted promptly to obtain amended bonding coverage for its officers and employees, so this problem has been resolved.

The audit of Local 1838 also disclosed that almost all financial records from before August 2004 could not be located. This included bank statements, canceled checks, deposit slips, receipts and disbursements journals and supporting documentation for the union's receipts and disbursements. The audit also disclosed that even after August 2004 union officers failed to retain adequate documentation for reimbursed expenses, for expenses charged to union credit cards, and for lodging expenses which were direct-paid by the union. 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. As we discussed, provided that Local 1838 maintains adequate documentation for its disbursements in the future, no additional enforcement action will be taken regarding this violation. Local 1838's records will be reviewed by this office again within the next three years to ensure that the above record keeping violations have been corrected. If, at that time, it is determined that union personnel are still not retaining adequate documentation I will strongly recommend

that those individuals responsible for the maintenance of union records be criminally prosecuted for willful failure to maintain 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).

Finally, the audit disclosed that Local 1738 paid \$715.33 of President Rose's personal expenses by paying the union's credit card bills that included charges for restaurants and room service while he was in travel status and collecting per diem. This constituted a violation of Section 501(a) of the LMRDA which places a fiduciary obligation on all union officers to hold the union's money and property solely for the benefit of the organization and its members. I note that Mr. Rose has now repaid the union and agreed not to charge personal expenses on the union credit card in the future. Therefore, no further action will be taken on this matter.

In addition, the audit disclosed a general lack of oversight and internal controls of the financial operations of the union. While this is not a violation of the law, it is a poor business practice that fails to properly safeguard the union's assets. I strongly urge Local 1838 to adopt stronger internal controls and to employ an outside accountant to audit the union on a regular basis.

I want to extend my personal appreciation for 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,

FW

Investigator