

U.S. Department of Labor

Employment Standards Administration
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August 17, 2011

Mr. Joseph Downey, President
1179 Charles Street
Providence, RI 02904

LM File Number: 542-672

Case Number: [REDACTED]

Dear Mr. Downey:

This office has recently completed an audit of State, County & Muni Empls Council 94 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 August 16, 2011, 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.

Recordkeeping Violations

Title II of the LMRDA establishes certain reporting and recordkeeping requirements. Section 206 requires, among other things, that labor organizations maintain adequate records 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, labor organizations must maintain all records used or received in the course of union business.

For disbursements, this includes not only original bills, invoices, receipts, vouchers, and applicable resolutions, but also documentation showing the nature of the union business requiring the disbursement, the goods or services received, and the identity of the recipient(s) of the goods or services. In most instances, this documentation requirement can be satisfied with a sufficiently descriptive expense receipt or invoice. If an expense receipt is not sufficiently descriptive, a union officer or employee should write a note on it providing the additional information. For money it receives, the labor

organization must keep at least one record showing the date, amount, purpose, and source of that money. The labor organization must also retain bank records for all accounts.

The audit of Council 94's 2009 records revealed the following recordkeeping violations:

1. Lost Wages

Council 94 did not retain adequate documentation for lost wage reimbursement payments to a union officer and union member totaling at least \$3,035.44. The union must maintain records in support of lost wage claims that 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. The OLMS audit found that Council 94 did retain an e-mail noting that the two individuals were authorized to be paid for lost time, the number of hours each and their rate of pay. The e-mail did not note the exact dates of the lost time or the union purpose. The Council retained the schedule for the Delaware State Volunteer Member Organizer Training, February 9-18, 2009 as proof of the union purpose for the lost time.

During the exit interview, I provided a compliance tip sheet, *Union Lost Time Payments*, and a sample of an expense voucher Council 94 may use to satisfy this requirement. The sample identifies the type of information and documentation that the union must maintain for lost wages and other officer expenses.

2. Receipt Dates not Recorded

Entries in Council 94's Quick Books receipts ledger reflect the date the union deposited money, but not the date money was received. Union receipts records must show the date of receipt. The date of receipt is required to verify, explain, or clarify amounts required to be reported in Statement B (Receipts and Disbursements) of the LM-2. The LM-2 instructions for Statement B state that the labor organization must record receipts when it actually receives money and disbursements when it actually pays out money. Failure to record the date money was received could result in the union reporting some receipts for a different year than when it actually received them.

Based on your assurance that Council 94 will retain adequate documentation in the future, OLMS will take no further enforcement action at this time regarding the above violations.

Reporting Violations

The audit disclosed a violation of LMRDA Section 201(b), which requires labor organizations to file annual financial reports accurately disclosing their financial condition and operations. The Labor Organization Annual Report LM-2 filed by Council 94 for fiscal year ending December 31, 2009, was deficient in the following areas:

1. Disbursements To Officers and Employees

Council 94 did not report some disbursements and reimbursements to officers and employees totaling at least \$95,718.91 in Schedule 11 (All Officers and Disbursements to Officers) and Schedule 12 (Disbursements to Employees). It appears that the Council reported these payments in Schedules 15 through 19.

The union must report in Column D of Schedules 11 and 12 (Gross Salary Disbursements) salary disbursements to include any lost time and severance pay. The union must report in Column F of Schedules 11 and 12 (Disbursements for Official Business) direct disbursements to officers and employees for reimbursement of expenses they incurred while conducting union business. In addition, the union must report in Column F of Schedules 11 and 12 indirect disbursements made to another party (such as a credit card company) for business expenses union personnel incur. However, the union must report in Schedules 15 through 19 indirect disbursements for business expenses union personnel incur for transportation by public carrier (such as an airline) and for temporary lodging expenses while traveling on union business. The union must report in Column G (Other Disbursements) of Schedules 11 and 12 any direct or indirect disbursements to union personnel for expenses not necessary for conducting union business.

2. Cash Receipts and Disbursement Reconciliation

The cash receipts and disbursement figures reported in Statement B are not the cash receipts and disbursement figures according to the union's books after reconciliation to the bank statements. Council 94 did not report the dues received from member locals for transmittal to them and the International in Items 46 (On Behalf of

Affiliates for Transmittal to Them) and 48 (Other Receipts) or the dues/per capita disbursements in Item 53 (General Overhead) and Item 63 (To Affiliates of Funds Collected on Their Behalf). The Council also failed to report in Item 48 (Other Receipts), money received from employees for health and dental plan co-payments and miscellaneous reimbursements. Council 94 also failed to report in receipts a \$75,000 grant received from the International. It appears the Council deferred the grant money and reported it as income in 2010.

Council 94 must file an amended Form LM-2 for fiscal year ending December 31, 2009 to correct the deficient items discussed above. The amended LM-2 must be electronically filed as soon as possible, but not later than September 13, 2011. Before filing, review the report thoroughly to be sure it is complete, accurate, and properly signed with electronic signatures.

I want to extend my personal appreciation to Council 94 for the cooperation and courtesy extended during this compliance audit. I strongly recommend that you make sure this letter and the compliance assistance materials provided to you are passed on to future officers. If we can provide any additional assistance, please do not hesitate to call.

Sincerely,

[REDACTED]

Investigator

cc:

[REDACTED]