

U.S. Department of Labor

Employment Standards Administration
Office of Labor-Management Standards
Milwaukee District Office
310 West Wisconsin Avenue
Room 1160
Milwaukee, WI 53203
(414)297-1501 Fax: (414)297-1685



March 19, 2008

Mr. Dennis Bernhardt, President
American Postal Workers AFL-CIO, Local 577
P.O. Box 1455
Sheboygan, WI 53082-1455

LM File Number: 092-827
Case Number: [REDACTED]

Dear Mr. Bernhardt:

This office has recently completed an audit of American Postal Workers Local 577 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 Treasurer Anthony Fortuna on March 19, 2008, 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 Violation

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 Local 577's 2007 records revealed the following recordkeeping violation:

Documentation for meal expenses

Local 577 did not retain some receipts for meal expenses incurred for union meetings. The union must maintain itemized receipts provided by restaurants to officers and employees. These itemized receipts are necessary to determine if such disbursements are for union business purposes and to sufficiently fulfill the recordkeeping requirement of LMRDA Section 206.

Records retained in support of meal expenses must include written explanations of the union business conducted and the full names and titles of all persons who incurred the restaurant charges. Also, the records retained must identify the names of the restaurants where the meal expenses were incurred.

Based on your assurance that Local 577 will retain adequate documentation in the future, OLMS will take no further enforcement action at this time regarding the above violations.

Other Violation

The audit disclosed the following other violation:

Failure to hold an election

Article 4, Section 4 of Local 577's bylaws dated July 2005 state that "Elections shall be held in February of each even numbered year. The election shall be conducted by secret ballot at the February local meeting." During the interview at the beginning of the audit, Mr. Fortuna stated that the last regular election of officers held by Local 577 occurred in January 2006, and that an election was supposed to be held in February 2008. You advised that the 2008 election was not held because Local 577 is in the process of revising its bylaws, and that the proposed revisions include eliminating certain officer positions. However, Local 577 failed to follow its current bylaws when it did not hold an officer election in February 2008.

Section 401(e) of the LMRDA requires that labor organization elections "... be conducted in accordance with the constitution and bylaws of such organization insofar as they are not inconsistent with the provisions of this title." Although section 401(b) of the Act provides that every local labor organization elect its officers not less than every three years, Local 577 must conduct its election every two years as required by its bylaws.

Section 402 of the Act contains enforcement provisions concerning officer elections. OLMS does not investigate elections of officers until and unless it receives a complaint from a union member. Section 402 provides that before a member may file an election complaint with the Secretary of Labor, he or she must first exhaust the remedies available under the constitution and bylaws of the labor organization and of any parent body, or must pursue such remedies for three calendar months without obtaining a final decision. OLMS strongly suggests that Local 577 conduct its regular election of officers as soon as possible.

I want to extend my personal appreciation to American Postal Workers Local 577 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,



Investigator

cc: Anthony Fortuna, Treasurer