

U.S. Department of Labor

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April 22, 2008

Mr. Lawrence Backlas, Business Agent
Bakery, Tobacco and Grain AFL-CIO
Local 802
1560 Harlem Road Suite 1B
Cheektowaga, NY 14206-1953

LM File Number 038-994
Case Number: [REDACTED]

Dear Mr. Backlas:

This office has recently completed an audit of Bakery, Tobacco and Grain Local 802 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 April 8, 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 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 Local 802's 2007 records revealed the following recordkeeping violations:

1. General and Credit Card Expenses

Local 802 did not retain adequate documentation for general expenses and credit card expenses incurred by union officers and employees totaling at least \$378. For example, documentation was not retained for disbursements made to UAW Local 1752 for meeting hall rental. Also, reimbursements were made to officers for some credit card expenses incurred at the Holiday Inn during contract negotiations, for which no original receipts or invoices were retained.

As previously noted above, labor organizations must retain original receipts, bills, and vouchers for all disbursements. The president and treasurer (or corresponding principal officers) of your union, who are required to sign your union's LM report, are responsible for properly maintaining union records.

2. Meal Expenses

Local 802 did not require officers and employees to submit itemized receipts for meal expenses totaling at least \$111.38. 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.

Local 802 records of meal expenses did not always include written explanations of union business conducted or the names and titles of the persons incurring the restaurant charges. For example, there were no notations made on some restaurant receipts from Hot Dog Heaven and Curly's Clubhouse. Union records 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 officers or employees incurred meal expenses.

3. Lost Wages

Local 802 did not retain adequate documentation for lost wage reimbursement payments to union officers and employees totaling at least \$752.62. 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 Local 802 did not identify the date lost wages were incurred, applicable rate of pay or specific union business being conducted on some lost wage vouchers.

During the exit interview, we reviewed expense vouchers used by Local 802 for other officer expenses which, when properly completed, may be used to satisfy this requirement.

Based on your assurance that Local 802 will retain adequate documentation in the future, OLMS will take no further enforcement action at this time regarding the above violations.

Reporting Violation

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-3 filed by Local 802 for fiscal year ending December 31, 2007 was deficient in that:

Disbursements to Officers

Local 802 did not include some reimbursements to officers totaling at least \$5,633.75 in the amounts reported Item 24 (All Officers and Disbursements to Officers). It appears the union erroneously reported these payments in Item 48 (Office and Administrative Expense).

The union must report most direct disbursements to Local 802's officers and some indirect disbursements made on behalf of its officers in Item 24. A "direct disbursement" to an officer is a payment made to an officer in the form of cash,

property, goods, services, or other things of value. See the instructions for Item 24 for a discussion of certain direct disbursements to officers that do not have to be reported in Item 24. An "indirect disbursement" to an officer is a payment to another party (including a credit card company) 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 Expense).

I am not requiring that Local 802 file an amended LM report for 2007 to correct the deficient items, but Local 802 has agreed to properly report the deficient items on all future reports it files with OLMS.

Other Issue

Two Signatures on Checks

During the audit, you advised that it is Local 802's practice for one officer, either the Business Agent or Financial Secretary, to sign all union checks. Your union's bylaws require that all checks be co-signed by a second designated officer. The two signature requirement is an effective internal control of union funds. Its purpose is to attest to the authenticity of a completed document already signed. However, one signature on a check violates your by-laws, and negates the purpose of the two signature requirement. OLMS recommends that Local 802 review these procedures to improve internal control of union funds and to become compliant with your governing documents.

I want to extend my personal appreciation to Bakery, Tobacco and Grain Local 802 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

Mr. Lawrence Backlas
April 22, 2008
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cc: Bryon Hoffman, President
Michael Devereaux, Financial Secretary