

U.S. Department of Labor

Employment Standards Administration
Office of Labor-Management Standards
Buffalo District Office
130 South Elmwood Avenue
Room 510
Buffalo, NY 14202-2465
(716)842-2900 Fax: (716)842-2901



August 6, 2008

Mr. David Barney, Treasurer
Communication Workers, AFL-CIO
Local Union 1170
1451 Lake Avenue
Rochester, NY 14615

LM File Number: 031-050

Case Number: [REDACTED]

Dear Mr. Barney:

This office has recently completed an audit of Communication Workers Local 1170 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, President Linda McGrath, and Vice President John Pusloskie on July 17, 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 Communication Workers Local 1170's records for fiscal year ending September 30, 2007 revealed the following recordkeeping violations:

1. Credit Card Expenses

Local 1170 did not retain adequate documentation for credit card expenses incurred by President McGrath totaling at least \$7,149. For example, the union did not maintain receipts for meeting rooms at both the Holiday Inn totaling at least \$611.94 and the Rochester Inn and Conference Center for \$2,659. In addition, the union did not maintain a receipt from CompUSA for a computer purchase totaling \$1,353.19.

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. Disbursements by Check

The local did not maintain documentation for several disbursements completed through a union check totaling at least \$1,083. The union did not maintain a receipt for use of a meeting room at the Diplomat Party House for \$626. In addition, several receipts were not retained from Mark's Pizzeria totaling \$167.62.

As noted, the union must maintain records necessary to verify the purpose of the disbursements.

3. Meal Expenses

Local 1170 did not require officers to submit itemized receipts for meal expenses. 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.

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.

Based on your assurance that the union 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 (Form LM-2) filed by CWA Local 1170 for fiscal year ending September 30, 2007 was deficient in the following area:

Disbursements to Officers and Employees (LM-2)

Local 1170 did not include some payments to officers and employees totaling at least \$5,143 in Schedule 11 (All Officers and Disbursements to Officers) and Schedule 12 (Disbursements to Employees). It appears that the local erroneously reported these payments in Schedules 15 through 19.

The union did not report a payment to President Linda McGrath for \$4,871 in Column G (Other Disbursements) for the remaining settlement on the Workers' Compensation claim. In addition, reimbursed expenses to McGrath totaling \$271.84 was also not reported in Column F (Disbursements for Official Business).

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.

I am not requiring that Local 1170 file an amended LM report for 2007 to correct the deficient items, but Local 1170 has agreed to properly report the deficient items on all future reports it files with OLMS.

Other Issue

Empire Media Union #15

As discussed with you during the exit interview, Empire Media Union #15 is a subordinate unit of CWA Local 1170 and represents employees of the Democrat & Chronicle Newspaper. This unit maintains its own treasury, receives members' dues through check-off and pays dues for its members to CWA Local 1170. In addition, Empire Media Union #15 has its own officers, which they elect, and bargains with employers in conjunction with CWA Local 1170.

OLMS has determined that Empire Media Union #15 is a separate labor organization under the LMRDA due to the following factors, among others: having a distinct and identifiable membership, holding meetings as a unit, and acting as a subordinate body through which members may enjoy membership in Local 1170.

Therefore, Empire Media Union #15 should begin complying with the filing requirements of the LMRDA, which includes filing separate financial reports with OLMS. Local 1170 should not consolidate Empire Media Union #15's financial information on their Form LM-2 for future reporting years. OLMS will be contacting the officers of that organization shortly. We ask for your help in assisting us with our efforts to have Empire Media Union #15 comply with the LMRDA.

I want to extend my personal appreciation to Communication Workers Local 1170 for the cooperation and courtesy extended during this compliance audit. I strongly recommend that you make sure this letter and any 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: Linda McGrath, President

John Pusloskie, Vice President

Michael Schulenberg, CPA