

U.S. Department of Labor

**Employment Standards Administration
Office of Labor-Management Standards
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May 21, 2008

Mr. Jeffrey Johnson, President
Electrical Workers IBEW AFL-CIO Local 1250
922 1/2 East St. Patrick Street
Rapid City, SD 57701-3973

LM File Number: 033-431
Case Number: [REDACTED]

Dear Mr. Johnson:

This office has recently completed an audit of IBEW Local 1250 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 Business **Manager Randy Stainbrook and Office Manager Cecilia Gaston** on April 30, 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 1250's 2007 records revealed the following recordkeeping violations:

1. General Reimbursed and Credit Card Expenses

Local 1250 did not retain adequate documentation for reimbursed expenses and credit card expenses incurred by Business Manager Randy Stainbrook and Office Manager Cecilia Gaston totaling at least \$4,364.90. For example, Local 1250 had no receipt or other supporting documentation for a hotel expense incurred by Mr. Stainbrook at Hyatt Hotels in Atlanta, Georgia on October 18, 2007 for \$857.90.

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. Disposition of Property

Local 1250 did not maintain an inventory of hats, t-shirts, and other property it purchased, sold, or gave away. A review of Local 1250's disbursement records showed that the union spent at least \$4,538 on t-shirts during the audit period. Office Manager Cecilia Gaston confirmed that the union did have t-shirts on hand at the end of the audit period. The union must report the value of any union property on hand at the beginning and end of each year in Item 30 (Other Assets) of the LM-3. The union must retain an inventory or similar record of property on hand to verify, clarify, and explain the information that must be reported in Item 30.

3. Lack of Salary Authorization

Local 1250 did not maintain records to verify that the salary payments to Ms. Gaston reported in Item 46 (Disbursements to Employees) were the authorized amount and therefore were correctly reported. Business Manager Randy Stainbrook explained that he sets Ms. Gaston's salary each year and that he informs the Executive Board of the annual changes to her salary. The audit revealed that Ms. Gaston's authorized salary was not recorded in meeting minutes or any other records. Local 1250 must keep a record, such as meeting minutes, to show the current salary authorized by the entity or individual with the authority to establish salaries.

Based on your assurance that Local 1250 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-3) filed by Local 1250 for fiscal year ending December 31, 2007, was deficient in the following areas:

1. Item 11 - Trusts or Funds

Item 11 (Create or participate in the administration of a Trust or other fund or organization, as defined in the instructions, which provides benefits for members or their beneficiaries?) should have been answered "Yes," instead of "No."

During the audit, Business Manager Randy Stainbrook explained that he is a trustee for several trusts that provide benefits to members, including a Health and Welfare fund, a Pension/ Annuity fund, and a Joint Apprenticeship Training fund.

The LM-3 instructions require that you answer Item 11 "Yes" if your labor organization created or participated in the administration of a "trust in which a labor organization is interested" which is defined in section 3(I) of the LMRDA as "a trust or other fund or organization (1) which was created or established by a labor organization, or one or more of the trustees or one or more members of the governing body of which is selected or appointed by a labor organization, and (2) a primary purpose of which is to provide benefits for the members of such labor organization or their beneficiaries."

The LM instructions require that if a union created or participated in a trust as defined in section 3(I) of the LMRDA that Item 11 be answered "yes" and the name, address, and purpose of each trust be reported in Item 56 (Additional Information).

2. Item 12 - Political Action Committee Funds

Item 12 (Have a political action committee (PAC) fund?) should have been answered "Yes" instead of "No" because the audit revealed that Local 1250 had a PAC fund during 2007. Business Manager Randy Stainbrook informed me that the local files required reports with the state of South Dakota for its PAC fund but that the funds are commingled with Local 1250's general fund.

The LM-3 instructions require that Local 1250 provide the name of any government agencies that the PAC fund files reports with and the PAC fund file number.

3. Item 13 - Acquire/Dispose of Assets

Item 13 (During the reporting period did your organization acquire or dispose of any **assets** in any manner other than by purchase or sale?) should have been answered, "Yes," because the union gave away various items during the year. The type and value of any property received or given away must be reported in Item 56 (Additional information) of the LM report along with the identity of the recipient(s) or donor(s) of such property. The union does not have to itemize every recipient of such giveaways by name. The union can describe the recipients by broad categories if appropriate such as "members" or "new retirees." In addition, the union must report the cost, book value, and trade-in allowance for assets that it traded in.

4. Item 17 - Employee paid more than \$10,000

Item 17 was incorrectly answered "No," and should have been answered "Yes," because Office Manager Cecilia Gaston received more than \$10,000 in salary payments. The instructions for Item 17 require that this item be answered "yes" if any employee of your organization received more than \$10,000 in gross salaries, allowances, and other direct and indirect disbursements during the reporting period. As noted in the LM-3 instructions for Item 17, the name and position of any employee who received \$10,000 or more from your organization and any affiliate must be noted in Item 56 (Additional Information).

5. Item 20 - Fidelity Bond

The amount reported in Item 20 (Fidelity Bond) is incorrect. Local 1250 reported in Item 20 that officers and employees were bonded for \$7,500. However, the audit revealed that during 2007, Local 1250's officers and employees were actually bonded for \$75,000.

6. Item 27 (U.S. Treasury Securities) and Item 52 (Purchase of Investments and Fixed Assets)

A review of union records showed that the union opened a \$30,000 investment account with RBC Dain Rauscher in February 2007. Local 1250's funds were invested into bonds and other U.S. Treasury Securities. Local 1250 must report the purchase of this investment in Item 52 (Purchase of Investments and Fixed Assets). In addition, if the value reported in Item 27 is different from the original cost, the LM instructions require that the original cost must be reported in Item 56.

7. Item 29 - Fixed Assets

Office Manager Cecilia Gaston informed OLMLS that the amount reported in Item 29 (\$62,208) is the value of the union's building. Local 1250 did not include in the amount reported in Item 29 the value of the union vehicle or other fixed assets, such as computers, furniture, and other office equipment. The LM-3 instructions for Item 29 require that you report the book value of all fixed assets, such as land, buildings, automobiles, and office furniture and equipment at the start and end of the reporting period. In addition, the union must retain records to clarify how the amount reported in Item 29 was calculated.

8. Item 30 - Other Assets

Local 1250 appears to have erroneously included the union vehicle in Item 30 of the union's 2007 LM report. The vehicle must be included in Item 29 as noted above. A review of Local 1250's receipt and disbursement records also revealed that Local 1250 sells t-shirts, hats, and various other items to members and appears to have had a supply of those items on hand at both the beginning and end of the year. The LM-3 instructions for Item 30 require that you report the book value of those assets at the start and end of the reporting period.

9. Item 24 - All Officers and Disbursements to Officers

Local 1250 did not include reimbursements to officers totaling at least \$2,486.17 in the amounts reported Item 24 (All Officers and Disbursements to Officers). It appears the union erroneously reported these payments in either Item 48 (Office and Administrative Expense) or Item 54 (Other Disbursements).

The union must report most direct disbursements to Local 1250 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).

In addition, the LM-3 instructions for Item 24 require that the local report in Column E of Item 24 (Allowances and Other Disbursements) the total maintenance and operating costs of any automobile it owned or leased and assigned to an officer, whether the use was for official business or for the personal benefit of the officer. Expenses for the operation and maintenance of union automobiles totaled at least \$1,700 for the audit period.

Local 1250 must file an amended Form LM-3 for fiscal year ending December 31, 2007, to correct the deficient items discussed above. I have enclosed a blank LM-3 form and instructions. In addition, reporting forms and instructions are available on the OLMS website (www.olms.dol.gov). The amended Form LM-3 should be submitted to this office at the above address as soon as possible, but not later than June 9, 2008. Before filing, review the report thoroughly to be sure it is complete, accurate, and signed properly with original signatures.

Other Issue

Internal Controls

Article VII Section 1(g) of the IBEW Constitution requires that checks be signed by the president and treasurer, and that disbursements only be made "on an order countersigned by the recording secretary" and the president. The audit revealed that in the case of Local 1250, the president and the treasurer usually sign checks. However, Local 1250's recording secretary is not involved in authorizing disbursements. A disbursements process that involves three officers and an order or voucher system can provide effective internal controls. OLMS recommends that Local 1250 follow the above procedures.

I want to extend my personal appreciation to IBEW Local 1250 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: Treasurer Roderick Fuhrer
Business Manager Randy Stainbrook