

U.S. Department of Labor

Employment Standards Administration
Office of Labor-Management Standards
Minneapolis Resident Investigator Office
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September 5, 2007

Mr. Larry Karsten, President
Mail Handlers Local 328
P.O. Box 647
Sioux Falls, SD 57101

LM File Number: 091-692
Case Number: [REDACTED]

Dear Mr. Karsten:

This office has recently completed an audit of Mail Handlers Local 328 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 and Treasurer Wayne Everson on July 7, 2009, 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 328's 2008 records revealed the following recordkeeping violations:

1. Lost Wages

You did not retain adequate documentation for lost wage reimbursements totaling at least \$850. Local 328 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.

In addition, the audit found that Mr. Karsten did not record a description of the union business conducted on some vouchers used to claim lost wages. It is necessary to document the number of hours lost on each date as well as describe, in detail (e.g., "office work" is not sufficiently descriptive), the nature of the union business that required lost wages be incurred. This information is necessary to determine if such payments for wages are for union business purposes and to sufficiently fulfill the recordkeeping requirement of LMRDA Section 206.

2. Meal Expenses

Local 328 did not require officers and employees to submit some itemized receipts for meal expenses. Itemized receipts provided by restaurants to officers and employees must be maintained. 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.

Additionally, Local 328 records of meal expenses did not include written explanations of union business conducted or the names and titles of the persons incurring the restaurant charges. For example, officers failed to record the purpose or the names of those present for a meal incurred in Rapid City, SD totaling \$347. 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.

Reporting Violation

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 Local 328 gave away apparel and tickets to Huset's Speedway, totaling at least \$5,900 during the year. The type and value of any property received or given away must be identified in the additional information section of the LM report along with the identity of the recipient(s) or donor(s) of such property. For reporting purposes, each recipient need not be itemized. Recipients can be described by broad categories, if appropriate, such as "members" or "new retirees."

Other Violation

The audit revealed a violation of LMRDA Section 502 (Bonding), which requires that union officers and employees be bonded for no less than 10 percent of the total funds those individuals or their predecessors handled during the preceding fiscal year. A quick formula for computing the amount of bonding coverage is: $(\text{Liquid Assets} + \text{Total Receipts}) \times 10\% = \text{Amount of Coverage Required}$.

The audit revealed that Local 328's officers and employees were not bonded for the minimum amount required at the time of the audit. However, the union obtained adequate bonding coverage and provided evidence of this to OLMS during the audit. As a result, OLMS will take no further enforcement action regarding this issue.

Other Issue

The audit revealed that Local 328 may be improperly following federal tax requirements for taxes related to per diem payments to officers that exceed amounts specified by the Internal Revenue Service. During the audit, you advised that for union related travel, Local 328 pays per diem of \$50 per day for travel within the state of South Dakota and \$65 per day for travel outside of South Dakota. Both amounts are above federal per diem rates for travel in the United States. OLMS recommends that you contact the Internal Revenue Service (ask for "Publication 1542, Per Diem Rates" and "Revenue Ruling 2006-56") for further guidance on per diem rates and regulations.

I want to extend my personal appreciation to Mail Handlers Local 328 for the cooperation and courtesy extended during this compliance audit. I strongly recommend that you make sure this letter and the compliance assistance materials

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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: Wayne Everson, Treasurer