

U.S. Department of Labor

Office of Labor-Management Standards
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November 16, 2011

Mr. Thomas Humiston, President
Food & Commercial Workers Local 414
219 South Washington Street
Belchertown, MA 01007

LM File Number: 028-596

Case Number: [REDACTED]

Dear Mr. Humiston:

This office has recently completed an audit of Food & Commercial Workers Local 414 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 November 14, 2011, 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 Food & Commercial Workers Local 414's 2010 records revealed the following recordkeeping violations:

1. Receipt Dates not Recorded

Entries in Local 414's receipts ledger reflect the date the union deposited money, but not the date money was received. Union receipts records must show the date of receipt. The date of receipt is required to verify, explain, or clarify amounts required to be reported in Statement B (Receipts and Disbursements) of the LM-3. The LM-3 instructions for Statement B state that the labor organization must record receipts when it actually receives money and disbursements when it actually pays out money. Failure to record the date money was received could result in the union reporting some receipts for a different year than when it actually received them.

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 414's 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. Local 414 had disbursements for food/meals totaling approximately \$623 for which the receipts were not documented with the names of members participating in the meal or the union purpose for the expense. Union records of meal expenses must include written explanation 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 Local 414 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 414 for fiscal year ending June 30, 2010, was deficient in the following areas:

1. Disbursements To Officers

Local 414 did not include reimbursements to officers totaling at least \$2,846.49 in the amounts reported in Items 24 E (All Officers and Disbursements to Officers). It appears the union erroneously reported the reimbursement payments in Item 48 (Office & Administrative Expense) and Item 54 (Other Disbursements).

The union must report most direct disbursements to Local 414 officers and some 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).

2. Acquire/Dispose of Property

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 watches totaling \$889.45 and gift cards totaling \$125 during the year. The union must identify the type and value of any property received or given away in the additional information section 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".

3. Fixed Assets

The local failed to report the purchase of a laptop computer and a voice recorder totaling \$986.71 in Item 52 (Purchase of Investments & Fixed Assets). It appears the local reported the purchases under Item 24 D (Disbursements to Officers) as the local's president purchased the items and was reimbursed. The local also failed to report the value of the fixed assets in Item 29 B (Fixed Assets End of Reporting Period).

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I am not requiring that Local 414 file an amended report for 2010 to correct the deficient items, but Local 414 has agreed to properly report the deficient items on all future reports it files with OLMS.

I want to extend my personal appreciation to Food & Commercial Workers Local 414 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,

A solid black rectangular redaction box covering the signature of the investigator.

Investigator

CC: Mr. James Moquin, Treasurer