

U.S. Department of Labor

Office of Labor-Management Standards
Birmingham Resident Office
950 22nd Street North
Room 601
Birmingham, AL 35203
(205)731-0239 Fax: (205)731-0305



January 5, 2010

Mr. James Woodson, President
Retail Wholesale, DC, UFCW
Local 441
1901 10th Ave South
Birmingham, AL 35205

LM File Number: 031-138
Case Number: [REDACTED]

Dear Mr. Woodson:

This office has recently completed an audit of Retail Wholesale, DC, UFCW, Local Union 441 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, Secretary Treasurer Phillips, Office Manager Wilson, RWDSU JC 932 Vice President Foster, and RWDSU JC 932 Secretary Treasurer Whitaker on December 16, 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 441's 2008 records revealed the following recordkeeping violations:

1. General Reimbursed Expenses

Local 441 did not retain adequate documentation for reimbursed expenses incurred by union officers and employees totaling at least \$3,270.00. For example, Check Number [REDACTED], dated 11-24-08, in the amount of \$900.00, payable to Veronica Phillips for Christmas Party expenses did not have an invoice, bill, or receipt. Check Number [REDACTED], dated 11-24-08, in the amount of \$2,000.00, payable to [REDACTED] for Christmas Party expenses did not have an invoice, bill, or receipt. Check Number [REDACTED], dated 12-3-08, in the amount of \$90.00, payable to [REDACTED] for Christmas Party expenses did not have an invoice, bill, or receipt.

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. Failure to Maintain Voided Checks

Local 441 did not retain several voided checks written on the union's checking account. For example, Check Number [REDACTED], dated 12-3-08, in the amount of \$990.00, payable to Veronica Phillips for Christmas Party expenses was voided and replaced with check number [REDACTED], dated 12-3-08. The original voided check ([REDACTED]) was not maintained in the union files. Check Number [REDACTED], dated 5-23-08, \$0.00, was annotated as "VOID" in the union ledger. The voided check was not maintained.

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As previously noted above, labor organizations must retain original receipts, bills, and records for all union financial accounts. 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.

3. Failure to Maintain Records for Bank Account

Local 441 did not record in its records the monies or transactions for a savings account at Regions Bank. This account did not have a union receipt or disbursement log/ledger or any type of electronic union record. Union receipt/disbursement records must include an adequate identification of all money the union receives and/or spends. The records should show the date and amount received, the date and amount spent and the source of the money.

As previously noted above, labor organizations must retain original receipts, bills, records and ledgers for all union financial accounts. 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.

Based on your assurance that Local 441 will retain adequate documentation in the future, OLMS will take no further enforcement action at this time regarding the above violation.

Reporting Violations

The audit disclosed violations 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 441 for fiscal year ending December 31, 2008, was deficient in the following areas:

1. Disbursements to Officers

Local 441 did not include some reimbursements to officers totaling at least \$3,190.00 in the amounts reported Item 24 (All Officers and Disbursements to Officers). It appears the union erroneously reported these payments in Item 54.

The union must report most direct disbursements to Local 441 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,

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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. Incorrect Dues Amount Reported on LM-3 Report

The LM-3 for FYE 12-31-2008 revealed the following reporting violation: A review of the union's rates of dues and fees revealed the dues amount is \$7.00 per week, however; Item 23 was incorrectly annotated with \$5.50 per week.

3. Failure to File By Laws

The audit disclosed a violation of LMRDA Section 201(a), which requires that a union submit a copy of its revised constitution and bylaws with its LM report when it makes changes to its constitution or bylaws. Local 441 amended its By Laws in 1990 but did not file a copy with its LM report for that year or any year since. As agreed, Local 441 will file a copy of its current constitution and bylaws with OLMS as soon as possible but not later than December 16, 2009.

Local 441 must file an amended Form LM-3 for fiscal year ending December 31, 2008, to correct the deficient items discussed above. I provided you with a blank form and instructions, and advised you that the 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 January 15, 2010. Before filing, review the report thoroughly to be sure it is complete, accurate, and signed properly with original signatures.

I want to extend my personal appreciation to Local 441 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.

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Sincerely,

[REDACTED]
Investigator

cc: Secretary Treasurer Veronica Phillips
Business Representative James Sisson, RWDSU 932
Office Manager Angela Wilson, RWDSU JC 932