

**U.S. Department of Labor**

Employment Standards Administration  
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September 17, 2008

Mr. Fred Myers, Financial Secretary  
Mineworkers, United, AFL-CIO, Local 1058  
205 Parkview Drive  
Westover, WV 26501-4042

LM File Number 048-310  
Case Number: [REDACTED]

Dear Mr. Myers:

This office has recently completed an audit of Mineworkers Local 1058 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 September 11, 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 disbursement, 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 Mineworkers Local 1058's 2007 records revealed the following recordkeeping violation:

#### Credit Card Expenses

Local 1058 did not retain adequate documentation for credit card expenses incurred by yourself and President John Laurie totaling at least \$376.87. For example, the union made three credit card purchases during the year for \$91.69, \$83.86, and \$201.32 but the union failed to maintain receipts/invoices for these purchases. At the exit interview, you explained the first two credit card charges were for food for officers relating to union meetings while the third charge was for hotel and food for officers while attending union meetings in Charleston, WV. The union must maintain the itemized receipts provided to the officers by restaurants and hotels. The union records must also include written explanations of the union business conducted and the names and titles of the persons incurring the restaurant charges.

As previously noted above, according to Section 206 of the LMRDA, records must be maintained which will provide in sufficient detail the necessary information and data from which the documents filed can be verified, explained, and checked for accuracy and completeness. 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 the Mineworkers Local 1058 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 a violation of LMRDA Section 201(b), which requires labor organizations to file annual financial reports accurately disclosing their financial condition and operations. The LM-3 filed by Mineworkers Local 1058 for fiscal year ending December 31, 2007 was deficient in the following areas:

1. Disbursements to Officers (LM-3)

Local 1058 did not report reimbursed expenses to officers totaling at least \$617 in 24 (All Officers and Disbursements to Officers), Column (E), (Allowances and Other Disbursements). It appears the union erroneously reported these payments in Item 48 (Office and Administrative Expense).

The union must report most direct disbursements to Local 1058 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 thing 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).

The union reported the union's auditor, Linda Shaver, in Item 24 and made deductions from her gross pay. Do not list the union's auditor in Item 24 and do not make deductions from her gross pay. You explained that Ms. Shaver is not an officer, employee, or member of the union. The LM-3 report should have reported her gross pay of \$400 in Item 49 (Professional Fees).

Item 45 (To Officers) enter the total reported in Item 24, line 11 (Net Disbursements) on page four of the LM-3 in Item 45.

2. Cash

The union reported the start of reporting period cash correctly in Item 25 (A) Start of Reporting Period. However, the union failed to report in Item 25(B) End of Reporting Period, the cash as of December 31, 2007. In Item 31(B) Total Assets the union reported \$19,366; this amount should also have been reported in Item 25(B).

3. Per Capita Tax

The union reported the withholding taxes and other deductions made from officers' pays in Item 47 (Per Capita Tax). These amounts should have been reported in Item 54 (Other Disbursements).

4. Professional Fees

The union reported the credit card charges in Item 49 (Professional Fees). As explained above the credit card charges for meals must be reported in Item 24 for the person incurring the meal charges whereas the indirect charges for lodging must be reported in Item 48 (Office and Administrative Expense).

5. Benefits

The union reported the direct dues collected and submitted to the International Union in Item 50 (Benefits). These payments should have been reported in Item 54 (Other Disbursements).

6. Contributions, Gifts and Grants

The union reported the payment to Brick Street Insurance Company in Item 51 (Contributions, Gifts and Grants) instead of in Item 54 (Other Disbursements).

7. Loans Made

The union reported the payments made to Quality Inn for the monthly membership meetings in Item 53 (Loans Made). This amount should have been included in Item 54 (Other Disbursements).

I am not requiring the Mineworkers Local 1058 to file an amended LM report for fiscal year ending December 31, 2007 to correct the deficient items, but the union has agreed to properly report the deficient items on all future reports it files with OLMS.

Mr. Fred Myers  
September 17, 2008  
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I want to extend my personal appreciation to Mineworkers Local 1058 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,



Supervisory Investigator

cc: John Laurie, President Mineworkers Local 1058