

**U.S. Department of Labor**

Employment Standards Administration  
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July 9, 2008

Mr. James Clark, Secretary-Treasurer  
Transportation Union Ind.  
Local 118  
RR 1 Box 320  
Hinton, WV 25951

LM File Number 039-768

Case Number: [REDACTED]

Dear Mr. Clark:

This office has recently completed an audit of Local 118 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 President David Bowling on July 2, 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 118's 2007 records revealed the following recordkeeping violations:

#### General Disbursements

Local 607 did not retain adequate documentation for a few of its disbursements concerning officer and office supply expenses.

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.

Based on your assurance that Local 118 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 LM-3 filed by Local 118 for fiscal year ending December 31, 2007, was deficient in the following areas:

##### 1. Disbursements to Officers

Local 118 did not include some reimbursements to officers totaling at least \$1,028 in the amounts reported Item 24 (All Officers and Disbursements to Officers). It appears the union erroneously reported these payments in Item 48 (Office & Administrative Expense).

The union must report most direct disbursements to Local 118 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).

2. Disbursements to Employees

Local 118 did not include any reimbursements to Local Chairmen totaling at least \$7,903.41 in Item 46 (Employees). It appears the union erroneously reported these payments in Item 48 (Office & Administrative Expense).

The union must enter the total of all salaries, allowances, travel advances which are not considered loans, and other direct and indirect disbursements (less deductions) to employees of your organization during the reporting period. Include disbursements to individuals other than officers who receive lost time payments even if your organization does not consider them to be employees or does not make any other direct or indirect disbursements to them.

3. Certificates of Deposit Reported As Investments

Local 118 improperly included the value of a certificate of deposit as an investment in Statement A (Assets and Liabilities). For LM reporting purposes, OLMS considers a certificate of deposit to be cash. The purchase or redemption of a certificate of deposit is a transfer of cash from one account to another and, therefore, the local should not report these transactions as receipts or disbursements.

4. Disbursements for Per Capita Tax

Local 118 did not report any disbursements made to the international for dues totaling at least \$72,414 in Item 47 (Per Capita Tax). It appears the union erroneously reported these payments in Item 54 (Other Disbursements).

5. Disbursements for Benefits

Local 118 did not report any disbursement made for insurance premiums on behalf of its members totaling at least \$29,064 in Item 50 (Benefits). It appears the union erroneously reported these payments in Item 54 (Other Disbursements).

Local 118 must file an amended Form LM-3 for fiscal year ending December 31, 2007, to correct the deficient items discussed above. The amended Form LM-3 should be submitted to this office at the above address as soon as possible, but not later than July 16, 2008. 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 118 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