

U.S. Department of Labor

Employment Standards Administration
Office of Labor-Management Standards
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January 20, 2011

Mr. Vincent LaBella, Secretary-Treasurer
United Transportation Union IND
Local 1440
24 Continental Avenue
Staten Island, NY 10303

Re: Case Number: [REDACTED]

Dear Mr. LaBella:

This office has recently completed an audit of United Transportation Union Local 1440 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 Jamie Brownell on January 19, 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.

The CAP disclosed the following violations:

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 1440's 2009 records revealed the following recordkeeping violations:

1. Deposit Entry Error

Local 1440 inadvertently entered a deposit of \$470.25 in January's monthly checkbook activity report. This action increased union's receipt by said amount resulting in incorrect total receipts reported in the union's LM-3 report for fiscal year ending December 31, 2009. The union must correctly post/enter in its records only those deposits for the fiscal year period from January 1, 2009 through December 31, 2009.

2. Inaccurate Recording of Receipts in Checkbook Activity Report

Local 1440 inadvertently recorded receipt in the amount of \$470.25 in January 2009's Checkbook Activity report. This inflated the union's dues receipts total in Item 44 of the LM-3 report for fiscal year ending December 31, 2009. The audit findings of receipts per union records compared to the bank statements showed that total receipts \$189,622. The LM-3 report Item 44 reflected \$190,092.

Based on your assurance that Local 817 will retain adequate documentation and accurately record receipts 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 Form LM-3 filed by Local 1440 for the fiscal year ended Month DD, 20YY, was deficient in the following areas:

1. Disbursements to Officers

Local 1440 did not include some lost time payments to the following officers totaling at least \$1,300 to you; \$800 to President Jamie Brownell; and \$2,200 to General Chairman Wilson in the amounts reported Item 24 (All Officers and Disbursements to Officers) Column D Gross Salary. It appears the union erroneously reported these payments in Item 24 Column E Allowances and Other Disbursements.

The union must report most direct disbursements to Local 1440 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. Cash Reconciliation

It appears that the cash figures reported in Item 25 are not the cash figures according to the union's books after reconciliation to the bank statements. The instructions for Item 25 state that the union should obtain account balances from its books as reconciled to the balances shown on bank statements. The audit showed that the Item 25 A is \$28,761 (instead of \$28,291) and Item 25 B is \$38,855 (instead of \$39,077).

3. Total Receipts

In January 2009, Local 1440 inadvertently entered a deposit amount of \$470 in union's records that was previously reflected in 2008's total receipts. The audit results showed that total receipts per union records and bank statements was \$189,622 for 2009. However, the LM-3 report for fiscal year ending December 31, 2009, Item 44 Total Receipts reflected \$190,092.

4. Total Disbursements

Local 1440 inaccurately reported the total amounts of disbursements in LM-3 Item 55 Total Disbursements for fiscal year ending December 31, 2009. The organization's Form LM-3, Item 55 Total Disbursements reflected \$179,306. However, the audit disclosed that the organization's total disbursements were approximately \$179,528. The union failed to enter two check disbursements totaling \$222 in the December 2009's Checkbook Activity Report which cleared the union's bank account in January 2010.

Local 1440 must file an amended Form LM-3 for the fiscal year ended December 31, 2009, 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 28, 2011. Before filing, review the report thoroughly to be sure it is complete, accurate, and signed properly with original signatures.

The audit disclosed the following other violation:

1. Local officer elections

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The local conducts its officer elections every four years which is a violation of Title IV of the LMRDA. Title IV requires all local unions to hold regularly scheduled officer elections not less often than every three years.

I want to extend my personal appreciation to United Transportation Union Local 1440 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

cc: Jamie Brownell, President