

U.S. Department of Labor

Employment Standards Administration
Office of Labor-Management Standards
Washington District Office
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April 11, 2005

Tony Pezza, Treasurer
IBEW Local 1805
898 Airport Road
Glen Burnie, MD 21061

Dear Mr. Pezza:

This office has recently conducted an audit of your union under the Compliance Audit Program (CAP). The audit disclosed that your union has failed to maintain adequate financial records for this office to fully determine your organization's compliance with the provisions of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA). Although the audit could not be completed to the standards of this agency, the following problems were uncovered during the audit. The matters listed below are not an exhaustive list of all possible problem areas since the audit conducted was limited in scope and the union failed to maintain records to enable OLMS to obtain an accurate picture of the union's financial condition.

Filing Requirements

The LMRDA requires that Local 1805 file its Labor Organization Annual Report, Form LM, within 90 days after the end of its fiscal year. During the audit, it was noted that your organization has only filed its labor organization annual report in a timely manner once in the last ten years. In the future, Local 1805 must submit its labor organization annual report by March 31st of the following year.

In addition to filing a report on the finances of Local 1805, all the financial information for its subsidiary organization, Electrical Workers Inc., must be reported. This may be done in one of the following ways:

- File a consolidated report showing the financial information for both Electrical Workers Inc. and Local 1805 on one labor organization annual report;

Complete a separate labor organization annual report, Form LM-2, for Electrical Workers Inc. Note that a LM report must still be filed for Local 1805; or

- File with Local 1805's labor organization annual report, a report of the financial condition and operations of the subsidiary organization, accompanied by a statement signed by an independent public accountant certifying that the financial report presents fairly the financial condition and operations of the subsidiary organization and that the report is prepared in accordance with GAAP.

Section 209(a) of the LMRDA provides for a fine of not more than \$10,000 or imprisonment for not more than one year, or both, for a willful violation of Title II of the LMRDA including the failure to file the reports required under the LMRDA. Note that this letter should be considered as notice of these provisions and any future late filings will be considered a willful failure to file.

Record Keeping

Title II of the LMRDA establishes certain reporting and record keeping requirements. Section 206 requires, among other things, that adequate records be maintained 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, all records used or received in the course of union business must be retained. This includes, in the case of disbursements, not only the retention of original bills, invoices, receipts, and vouchers, but also adequate additional documentation, if necessary, showing the nature of the union business requiring the disbursement, the goods or services received, and the identity of the recipients of the goods or services.

The following record keeping deficiencies were revealed during the audit of Local 1805's 2003 records:

The union failed to keep sufficient records as to determine whether specific disbursements, including union checks and credit card purchases, were made for legitimate union expenditures. A large number of the expenses incurred by Local 1805 did not have any supporting documentation other than vouchers or warrants that did not sufficiently describe the expense. All records used or received in the course of union business must be retained. This includes bills, invoices, receipts, and any other additional documentation that is produced in the course of union business. If the bill, invoice, receipts, or documentation does not clearly indicate the purpose of the union business, another record must be produced by the union to clearly identify the union purpose of the disbursement.

Deposits made into the local's accounts at ⁴ and ⁴ Federal Credit Union were not properly documented as to identify the source of the receipt. In addition, a number of deposit slips were not maintained. Union records must include an adequate identification of each receipt of money. In addition, any records produced in the course of transactions with financial institutions must be maintained.

The local did not maintain cancelled checks, deposit slips, and other information to explain receipts and disbursements from the "hall account" held at Northrop Grumman Federal Credit Union. All records used or received in the course of conducting union business must be maintained.

- The local failed to maintain bank statements, cancelled checks, and deposit slips, to explain the transactions for the bank accounts held in the name of _____ at M&T Bank and Allfirst Bank. All records used or received in the course of conducting union business must be maintained.
- Local 1805 officers and employees who incurred expenses in the course of conducting union business failed to retain adequate documentation for reimbursed expenses, for expenses charged to union credit cards, and for lodging expenses which were direct-paid by the union. The date, amount, and business purpose of every expense must be recorded on at least one union record. In addition, the names of individuals present for meal expenses paid for by the union and the locations where meal expenses were incurred must also be recorded.
- The union failed to maintain records on the use of its credit card. The local must document all purchases made with the union credit card and the local must maintain adequate records, including receipts, bills, and sales slips, to show the purpose of each disbursement. The records maintained should identify the date, amount, and business purpose of every expense purchased with the union's credit card.
- Local 1805 failed to maintain employer dues check-off records and records of money transferred between accounts. Union receipt records must include an adequate identification of each receipt of money. The records should show the exact date that the money was received, the identity of the source of the money, and the individual amount received from each source.

The proper maintenance of union records is the personal responsibility of the individuals who are required to file Local 1805's LM report. You should be aware that Section 206 of the LMRDA provides for a fine of not more than \$10,000 or imprisonment for not more than one year, or both, for willful failure to maintain records. Section 209(c) of the LMRDA provides for a fine of not more than \$10,000 or imprisonment for not more than one year, or both, for willful destruction or falsification of records, and applies to any person (not just the individuals who are responsible for filing the union's LM report).

Local 1805's records will be reviewed by this office again within the next six months to one year to ensure that the above record keeping violations have been corrected. If, at that time, it is determined that union personnel are still not retaining adequate documentation, **I will strongly recommend that those individuals responsible for the maintenance of union records be criminally prosecuted for willful failure to maintain records.**

Reporting Violations

The CAP disclosed a violation of LMRDA section 201(b) because the Labor Organization Annual Report, Form LM-2, filed by Local 1805 for fiscal year ending December 31, 2003 failed to meet the standards of acceptability.

During the audit, the following reporting discrepancies were noted:

- Item 14 asks if the union was audited by an outside organization during the fiscal year. On the 2003 LM report, Item 14 was checked no. In the opening interview, you stated that the local was audited on an annual basis by the firm of Daniel Conklin, CPA. The “yes” box for this item should have been checked and additional information provided in item 75.
- Information in Statement A (Assets and Liabilities), including items 25(A) (Cash, Start of Reporting Period) and 25(B) (Cash, End of Reporting Period), is incorrectly reported. The purpose of Statement A is to report the balances of the local’s assets and liabilities at the start and end of the reporting period. The information in this statement is not supported by either the local union’s bank statements or the records provided by the local.
- Information in Statement B (Receipts and Disbursements) including items 39 (Dues), 46 (Interest), 56 (Officers), 57 (Employees), 60 (Office and Administrative Expense), and 62 (Professional Fees), is incorrectly reported. The purpose of Statement B is to report the flow of all cash in and out of your organization during the reporting period. The information in this statement is not supported by either the local union’s bank statements or the records provided by the local. Please be advised that the local must report all receipts in items 39 through 54 and all cash disbursements in items 56 through 73.
- The information in Schedule 9 (All Officers and Disbursements to Officers) does not accurately reflect the union’s disbursements to officers. Direct disbursements to officers and employees for reimbursement of expenses incurred while conducting union business must be reported in Column F of Schedules 9 and 10 (Disbursements for Official Business). This should include any direct reimbursements of business expenses, mileage payments, and checks made in an officer or employee’s name that are for petty cash. In addition, indirect disbursements made to another party (such as a credit card company) for business expenses incurred by union personnel must also be reported in Column F of Schedules 9 and 10. However, indirect disbursements for business expenses incurred for transportation by a public carrier (such as an airline) and for temporary lodging expenses incurred while traveling on union business must be reported in Schedule 13 (Office and Administrative Expenses). Any direct or indirect disbursements to union personnel for expenses not necessary for conducting union business (such as personal use of the union’s credit card) must be reported in Column G of Schedules 9 and 10 (Other Disbursements).

Any disbursements made to an officer or employee for the purpose of replenishing the petty cash account must be reported next to the officer or employee’s name in Column

F of Schedule 9. The local must also retain receipts and all other documentation explaining the nature of the expenses resulting from the use of petty cash.

The records provided by the local show that non-business related expenses paid by Local 1805 which were not necessary for performing union business (such as personal purchases using the union's credit card) were not reported in Column G of Schedule 9. In addition, the corresponding repayments to Local 1805 by union officers for such purchases were not reported in item 54 and Schedule 14 (Other Receipts). The name of each individual who made repayments and the total amount repaid by each person should be clearly reported in Schedule 14. Union policies which allow personnel to make personal purchases with union credit cards or to otherwise incur personal expenses paid by the union for which the union is later reimbursed are not recommended because they are generally too vulnerable to abuse.

- Mileage cannot be reported in Schedule 13 (Office & Administrative Expense). Payments to officers or employees for mileage must be recorded in Column (F) of Schedule 9 or 10.

I am not requiring that Local 1805 file an amended LM-2 report for 2003 to correct the deficient items at this time. It is necessary that union properly report the deficient items on all future reports filed with this agency.

Other Issues

The audit revealed a violation of LMRDA Section 502 (Bonding), which requires that the union's officers and employees be bonded for no less than 10% of the total funds handled by those individuals or their predecessors during the preceding fiscal year. Local 1805 failed to produce any evidence of being bonded as required by the LMRDA. The union should obtain adequate bonding coverage for its officers and employees immediately. Please provide proof of bonding coverage to this office as soon as adequate coverage has been obtained.

During the audit, it was noted that expense vouchers did not contain original signatures as you stated were required during the opening interview. The second signature requirement is an effective internal control of union funds. Its purpose is to attest to the authenticity of a completed document already signed. However, the use of photocopies of signatures does not attest to the authenticity of the completed voucher, and completely circumvents and undermines the purpose of the signature requirement. We strongly suggest that you revise this aspect of your disbursement procedures.

The local's general journal does not accurately reflect the financial condition of the local. Approximately 15 checks and 2 deposits were improperly recorded twice in the local general ledger provided to OLMS.

A review of union bank records show that the union's former officers are still signatories on a number of the union's bank accounts. The local's principal financial officer was also unaware of several accounts held in the name of the union and of accounts held in the name of the union's subsidiary organization. We strongly suggest that the former officials be removed from all of the union's bank accounts and the principal financial officer be advised of all of the union's current bank accounts.

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I strongly recommend that you make this letter available to Local 1805's executive board and file the labor organization annual report for the fiscal year ending December 31, 2004 within the guidelines provided by federal law to avoid possible legal action by this agency. If you have any questions, please feel free to contact me at the number above.

Sincerely,

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investigator

cc: Paul Witte, IBEW International Vice President
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