

U.S. Department of Labor

Employment Standards Administration
Office of Labor-Management Standards
Cleveland District Office
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September 27, 2005

Richard C. King
Communications Workers of America
Local 84749
1724 W. County Rd. 38
Tiffin, OH 44883

Re:

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Dear Mr. King,

This office has recently completed an audit of Communications Workers of America Local 84749 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, as amended (LMRDA). As discussed during the exit interview with you on March 8, 2005, 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.

Record Keeping Violations

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 violations were revealed during the audit of Local 84749's 2003 records:

Local 84749 failed to locate its inventory listing for hats which were purchased and given away. Records must be retained which account for all union property. In the case of union hats, jackets and other items sold to members, the date and amount received from every sale must be recorded in at least one record.

Local 84749 failed to retain in its records the dividend statements from its Praxair stock. Records must be maintained for at least five years by which all account balances can be verified, explained, and clarified.

As agreed, provided that Local 84749 maintains adequate documentation for its purchases and stock dividends in the future, no additional enforcement action will be taken regarding this violation.

Reporting Violations

The CAP disclosed a violation of LMRDA section 201(b), because the Labor Organization Annual Report (Form LM-3) filed by Local 84749 for fiscal year ending December 31, 2003 was deficient in the following areas:

Local 84749 failed to include on the Form LM-3 the existence of its subsidiary Building Corporation. Item 10 (Have a "subsidiary organization" as defined in Section X of the instructions) should have been answered "Yes" instead of "No". In addition, Local 84749 failed to report any financial information for the Building Corporation. This financial information includes funds held in certificates of deposit (CDs); receipts earned from interest on the CDs, and parking lot fees; disbursements made (including payments to employees, like John Redford); liabilities; and the value of its fixed assets (parking lot, computer, etc.). The subsidiary organization's financial information can be reported in three ways: 1) combined with the union's on a single LM report; 2) reported separately on its own LM report; or, 3) by filing with the union's regular annual LM report, the regular annual report of the financial conditions 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 was prepared in accordance with generally accepted accounting principles. For LM reporting purposes, certificates of deposit are considered to be cash (regardless of the length of their term). The purchase or redemption of a certificate of deposit is simply a transfer of cash from one account to the other and therefore should not be reported either as a receipt or disbursement. Also, union receipts records must include an adequate identification of each receipt of money.

Item 13 (Acquire any goods or property in any manner other than by purchase or dispose of any goods or property in any manner other than by sale) should have been answered "Yes" instead of "No," because the union purchased and gave away hats during the year. The type and value of any property received or given away must be identified in the additional information section of the LM report with the identity of the recipient(s) or donor of such property. In addition, for assets that were traded in, the cost, book value, and trade-in allowance must also be reported. Further, the union must retain records which adequately account for all property that is purchased, sold, and given away.

All direct disbursements to your union's officers and some indirect disbursements made by your organization on behalf of its officers must be included in the amounts reported in item 24. A "direct

disbursement" to an officer is a payment made by your organization to an officer in the form of cash, property, goods, services, or other things of value. An "indirect disbursement" to an officer is a payment made by your organization to another party (including credit card companies) 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 Expenses).

It was necessary for Local 84749 to file an amended LM-3 report for 2003 to correct the deficient items discussed above. One copy of the amended report should have been submitted to this office at the above address. Before mailing, the report should have been reviewed thoroughly to be sure that it is complete, accurate, and signed properly with original signatures. Your amended report for 2003 was received in this office on September 13, 2005, and this violation has thereby been resolved.

Other Issues

The CAP disclosed a violation of LMRDA section 201(a) which requires that unions submit a copy of their current constitution and bylaws with its LM report when bylaw changes are made. Local 84749 amended its constitution and bylaws in 2004, but a copy of the constitution and bylaws was not filed with this office. Two copies of Local 84749's constitution and bylaws have now been filed with this office, and this violation has been resolved.

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 84749's officers and employees are currently bonded for \$5,000, but they must be bonded for at least \$7,500. The union should obtain adequate bonding coverage for its officers and employees immediately. You have since provided proof of bonding coverage to this office, and this violation has been resolved.

An LM report for the three months that were not covered by your 2002 LM-3 report (10/1/02 through 12/31/02) needed to be filed with this office. Because of the change in your union's fiscal year, these months were not covered by either your previous 2002 or 2003 LM report. Your amended report for this three month period was received in this office on September 13, 2005, and this violation has been resolved.

During the audit, you advised that it is Local 84749's practice for you alone to sign all union checks. You indicated that no one but you reviews the checks before they are issued. Your union's bylaws state that checks are to be signed by the president and financial secretary. 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 only one signature does not attest to the authenticity of the completed check, and completely circumvents and undermines

the purpose of the countersignature requirement. You may want to revise this aspect of your check disbursement procedures.

I strongly recommend that you make sure that this letter and the compliance assistance materials that were provided to you are passed on to your and Mr. Wise's successors at whatever time you may leave office.

I want to extend my personal appreciation for your and your entire staff's cooperation and courtesy during this compliance audit. If we can be of any assistance in the future, please do not hesitate to call.

Sincerely,

RCC

Investigator

cc: John Wise, President