

U.S. Department of Labor

Employment Standards Administration
Office of Labor-Management Standards
Buffalo District Office
130 South Elmwood Avenue
Room 510
Buffalo, NY 14202-2465
(716)842-2900 Fax: (716)842-2901



July 27, 2009

Paul Moore, Financial Secretary
Communication Workers, AFL-CIO
Local Union 81326
5500 Broadway
Lancaster, NY 14086

LM File Number: 070-282

Case Number: [REDACTED]

Dear Mr. Moore:

This office has recently completed an audit of Communication Workers, Local 81326 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 Chief Steward Roy Duquette and you on July 24, 2009, 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 CWA Local 81326 records for fiscal year ending September 30, 2008 revealed the following recordkeeping violation:

Meal Expenses

Local 81326 did not retain itemized receipts for two meal expenses totaling \$132.60 from Max's Classic Grille. The union must maintain itemized receipts provided by restaurants to officers and employees. These itemized receipts are necessary to determine if such disbursements are for union business purposes and to sufficiently fulfill the recordkeeping requirement of LMRDA Section 206.

Union records of meal expenses must include not only the itemized receipt but also written explanations of the union business conducted and the full names and titles of all persons who incurred the restaurant charges.

Based on your assurance that Local 81326 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 (Form LM-3) filed by CWA Local 81326 for fiscal year ending September 30, 2008 was deficient in the following areas:

1. Disbursements to Officers

Local 81326 did not include some reimbursements to officers totaling at least \$3,302 in the amounts reported in Item 24 (All Officers and Disbursements to Officers). It appears the union erroneously reported these payments in Item 48 (Office and Administrative Expense).

The union must report most direct disbursements to Local 81326 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. Per Capita Tax

The union did not report properly payments to the WNY AFL-CIO for per capita tax totaling \$599. The union should have reported these payments in Item 47 (Per Capita Tax). It appears the union erroneously reported these payments in Item 48 (Office and Administrative Expense).

3. Purchase of Fixed Assets

During the period, the union purchased a laptop for the union totaling \$795.95. This payment was reported incorrectly in Item 48 (Office and Administrative Expense). Rather, this purchase should be reported in Item 52 (Purchase of Investments and Fixed Assets) and corresponding entries made to Item 29 (Fixed Assets), as applicable.

I am not requiring that Local 81326 file an amended LM report for 2008 to correct the deficient items, but Local 81326 has agreed to properly report the deficient items on all future reports it files with OLMS.

I want to extend my personal appreciation to Local 81326 for the cooperation and courtesy extended during this compliance audit. I strongly recommend that you make sure this letter and any 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: John Kell, Jr., President
5500 Broadway
Lancaster, NY 14086

Roy Duquette, Chief Steward
5500 Broadway
Lancaster, NY 14086

Melissa Brainard, CPA
9 Maple Avenue
Lancaster, NY 14086