

## U.S. Department of Labor

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March 3, 2005

Mary Jane Holland, President  
Steelworkers AFL-CIO, LU 9184

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Re: Case No. 2

Dear Ms. Holland:

This office has recently completed an audit of Steelworkers, Local 9184 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 on March 2, 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 9184's 2004 records:

#### 1. Payments to Officers

Some union officers, including you and steward # 7(C) failed to retain adequate documentation for some reimbursed meal expenses. 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 (names of restaurants) where meal expenses were incurred must also be recorded. The information retained must be sufficient to enable OLMS to verify the information concerning payments to officers and employees that is required to be reported on the Labor Organization Annual Report (Form LM-3) filed by your union.

In the case of Local 9184, officers failed to retain records that identify the names of those present for meal expenses paid for by Local 9184 and failed to adequately describe the union business conducted that required the expense be incurred. Descriptions such as "union business" or "grievances" are not sufficient.

With respect to documentation retained in support of specific disbursements, the record retention requirement includes not only the retention of original bills, invoices, receipts, and vouchers, but also additional documentation, if necessary, showing the nature of the union business requiring the disbursement, the goods or services received, and all the recipients of the goods or services. In most instances, this documentation requirement can be most easily satisfied with a sufficiently descriptive receipt. If a receipt is not sufficiently descriptive, a note can be written on it providing the additional information. An exception may be made only in those cases where 1) other equally descriptive documentation has been maintained, and 2) there is evidence of actual oversight and control over disbursements.

## 2. Mileage Expenses

Union officers failed to retain adequate documentation for reimbursed mileage expenses. For example, in examination of the 14 voucher where you claimed mileage, 5 were not adequately documented. In the case of reimbursed mileage expenses for personal vehicles used for business travel, records must be maintained which identify the date of travel, locations traveled to and from, number or miles driven, and the business purpose of each use. In the case of Local 9184, officers occasionally did not identify the business purpose of the travel that required the mileage expenses be incurred.

## 3. Receipts from Interest

Local 9184 failed to record in its records some receipts received from banks for interest earned on certificates of deposit. Union receipts 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.

As agreed, provided that Local 9184 maintain adequate documentation for its receipts and disbursements 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 9184 for fiscal year ending December 31, 2003 was deficient in the following areas:

1. Officers not Identified In Item 24 (All Officers and Disbursements to Officers)

The names of some officers who held office during the year were not reported in Item 24 with the total amount of payments to or for them. The names of all persons who held office during the year must be reported in Item 24 regardless of whether or not they received any payments from the union.

2. Payments to Employees Not Properly Reported

The audit revealed that some stewards received lost wage reimbursement payments during 2003. However, the LM-3 filed by Local 9184 reported there were no disbursements to employees in Item 46 (To Employees). Stewards (who are not officers) are considered employees for LM reporting purposes and any payments to them should be included in the amount reported in Item 46.

3. Reimbursements to Officers not Reported in Item 24

Local 9184 failed to include some reimbursements to officers and employees in the amounts reported in Item 24(All Officers and Disbursements to Officers). On the 2003 LM-3 form, such payments appear to have been erroneously reported in Item 48 (Office & Administrative Expense).

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).

4. Lost Wage Payments to Officers Not reported in Item 24

Local 9184 failed to include lost wage reimbursement payments to officers in the amounts reported in Column D (Gross Salary) of Item 24, as required by the instructions for completing Item 24. In 2003, it appears that some lost time payments attributed to officer training were erroneously reported in Item 48 (Office and Administrative Expense).

5. New officers in a non-election year

The status of some officers at the end of 2003 was not properly reported in Item 24. In Item 24, in the box labeled "Status" the appropriate letter to show the status of each officer ("N", "P", or "C") is required. If any officer is not elected at a regular election in accordance with your organization's constitution and bylaws or other governing documents on file with OLMS, the reason a past officer

vacated office and the manner in which the new officer was chosen must be explained in Item 56 (Additional Information).

I am not requiring that Local 9184 file an amended LM-3 report for 2003 to correct the deficient items, but as agreed, your union will properly report the deficient items for the fiscal year of the audit and all future reports filed with this agency.

#### Other Issues

##### Salary Authorizations

During the audit, I advised you that authorization of the salary amounts paid to union officers could not be found in union records. I suggest that Local 9184 take steps to record the authorized salary amounts by discussing them at a future meeting and recording them in meeting minutes or some other internal document. When the authorized salaries have been recorded in union records, I would appreciate it if you would forward a copy of the record documenting the authorization to me at the above address.

##### Failure to File Bylaws

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 9184 amended its constitution and bylaws in November 2002, but a copy of the constitution and bylaws was not filed with Local 9184's LM-3 report for that year. Two copies of Local 9184's constitution and bylaws have now been filed.

##### Income Tax Withholdings / Reporting

The CAP revealed that Local 9184 may have improperly followed state or federal requirements for withholding of various taxes from payments to officers and employees. While Local 9184 itself may be exempt from income taxes, payments made by Local 9184 to officers and employees are not exempt, except in certain circumstances. Local 9184 maintains that its officers do not receive a salary but rather an "independent expense." You advised that these payments are intended to compensate the officers for the work that they do and are not intended to be reimbursement to them for any specific expenses. As such, those payments are likely subject to income tax reporting and withholding requirements. During the Exit Interview you advised that these payments are reported on yearly W-2 forms; however those records were not provided during the exit interview.

While this office has no authority to interpret the state or federal tax code, it is my understanding that all salary and supplemental payments (*as discussed in the reporting section of this letter*) are subject to the withholding of income, Social Security, and Medicare taxes, and that Local 9184 as an "employer" must also pay its share of Social Security and Medicare taxes. Local 9184 may be liable for the Federal Unemployment Tax (FUTA) as well.

I recommend that you contact the Wisconsin Department of Revenue in Madison at (608) 266-2776 (ask for the publication "Wisconsin Employer's Withholding Tax Guide"), and the Internal Revenue Service (ask for "Circular E, Employer's Tax Guide" and Form 990, which Local 9184 may be required to file). I also suggest that you determine Local 9184's requirements, if any, under the Wisconsin Worker's Compensation Act by contacting the Wisconsin Dept. of Industry, Labor and Human Relations (DILHR) at its Worker's Compensation Division in Madison at (608) 266-0416.

I strongly recommend that you make sure that this letter and the compliance assistance materials that were provided to you are passed on to yours, Ms. Holland, and Ms. Heyrmans' 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

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Investigator

cc: Christina Bramer-Wheaton, Treasurer  
Amanda Heyrman, Financial Secretary

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