

U.S. Department of Labor

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October 5, 2009

Mr. Thomas Russell, Financial Secretary
Sheet Metal Workers AFL-CIO
Local 177
4709 Alabama Ave
Nashville, TN 37209

LM File Number 021-189
Case Number: [REDACTED]

Dear Mr. Russell:

This office has recently completed an audit of Sheet Metal Workers Local 177 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, Attorney Jan Jennings, and Accountant A. Jack Farmer on August 28, 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.

The CAP disclosed:

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 177's 2008 records revealed the following recordkeeping violations:

1. Failure to Identify Source of Receipts

Local 177 did not record in its receipts records the identity of those who purchased T-shirts, totaling at least \$392.00. Union receipts records must include an adequate identification of all money the union receives. The records should show the date and amount received, and the source of the money.

2. Information not Recorded in Meeting Minutes

During the audit, you advised OLMS that the membership authorized the local to pay daily mileage to the local's organizer at the November 1994 membership meeting. Article 10, Section 14 of the Sheet Metal Workers Constitution and Ritual, requires that except for per capita dues, fees, and obligations due the local, no bills or obligations will be paid from the funds of the local except by vote of the membership. Section 14 also states that initial approval of commitments for salaries, rent, telephones and similar recurring expenditures required in the normal and regular operation of the union shall be sufficient compliance with this Section. However, the minutes of the meeting do not contain any reference to those issues. Minutes of all membership or executive board meetings must report any disbursement authorizations made at those meetings.

3. Reimbursed Auto Expenses

Union officers who received reimbursement for business use of their personal vehicles did not retain adequate documentation to support payments to them

totaling at least \$5,077.35 during 2008. The union must maintain records which identify the dates of travel, locations traveled to and from, and number of miles driven. The record must also show the business purpose of each use of a personal vehicle for business travel by an officer or employee who was reimbursed for mileage expenses.

Based on your assurance that Local 177 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-2 filed by Local 177 for fiscal year ending December 31, 2008 was deficient in the following areas:

1. Acquire/Dispose of Property

Item 15 (During the reporting period did your organization acquire or dispose of any assets in any manner other than by purchase or sale?) should have been answered, "Yes," because the union gave away T-shirts totaling more than \$170.00 during the year. The union must identify the type and value of any property received or given away in the additional information section of the LM report along with the identity of the recipient(s) or donor(s) of such property. The union does not have to itemize every recipient of such giveaways by name. The union can describe the recipients by broad categories if appropriate such as "members" or "new retirees." In addition, the union must report the cost, book value, and trade-in allowance for assets that it traded in.

2. Disbursements to Officers and Employees

Local 177 did not include some reimbursements to officers and employees totaling at least \$6,495.46 in Schedule 11 (All Officers and Disbursements to Officers) and Schedule 12 (Disbursements to Employees). It appears that the local erroneously reported these payments in Schedules 15 through 19.

The union must report in Column F of Schedules 11 and 12 (Disbursements for Official Business) direct disbursements to officers and employees for

reimbursement of expenses they incurred while conducting union business. In addition, the union must report in Column F of Schedules 11 and 12 indirect disbursements made to another party (such as a credit card company) for business expenses union personnel incur. However, the union must report in Schedules 15 through 19 indirect disbursements for business expenses union personnel incur for transportation by public carrier (such as an airline) and for temporary lodging expenses while traveling on union business. The union must report in Column G (Other Disbursements) of Schedules 11 and 12 any direct or indirect disbursements to union personnel for expenses not necessary for conducting union business.

3. Automobile Expenses

Local 177 did not include in the amounts reported in Schedule 11 (All Officers and Disbursements to Officers) and Schedule 12 (Disbursements to Employees) disbursements for the operation and maintenance of union automobiles totaling at least \$2,432.88.

The LM-2 instructions provide two methods for reporting automobile-related expenses. The union must report in Schedules 11 and 12 direct and indirect disbursements for the operation and maintenance of union owned and leased vehicles and the operation and maintenance of vehicles owned by union personnel (including gasoline, repairs, and insurance). The union may divide the expenses and report them in Columns F and G based on miles driven for union business (supported by mileage logs) compared with miles driven for personal use.

Alternatively, rather than allocating the expenses between Columns F and G, if 50 percent or more of an officer's or an employee's use of a vehicle was for official business, the union may report all of the expenses relative to the vehicle assigned to the officer or employee in Column F of Schedule 11 or 12 with an explanation in Item 69 (Additional Information) that the officer or employee used the vehicle part of the time for personal business. Similarly, if a vehicle assigned to an officer or employee was used less than 50 percent of the time for business, all of the expenses relative to that vehicle may be reported in Column G with an explanation in Item 69 that the officer or employee used the vehicle partly for official business.

4. Sale of Supplies

Local 177 did not correctly report receipts from the sale of supplies. The audit revealed that during 2008, Local 177 collected receipts totaling at least \$1,122.00.

The LM-2 instructions require that the union report receipts from the sale of supplies in Item 39 (Sale of Supplies). In addition, it must report the value of any supplies for resale on hand at the beginning and end of the year in Item 28 and Schedule 7 (Other Assets).

5. Failure to File Bylaws

The audit disclosed a violation of LMRDA Section 201(a), which requires that a union submit a copy of its revised constitution and bylaws with its LM report when it makes changes to its constitution or bylaws. Local 177 amended its constitution and bylaws in either 1994 or 1996, but did not file a copy with its LM report for that year. Local 177 has now filed a copy of its constitution and bylaws.

6. Dues and Agency Fees

Local 177 improperly included in Item 38 (Fees, Fines, Assessments, and Work Permits) \$56, 277.98 in membership dues. These receipts should have been reported in Item 36 (Dues and Agency Fees). The LM-2 Instructions require labor organizations to report regular, dues, working dues, etc. in Item 36. Fees, fines, assessments, and work permits are required to be reported in Item 38.

Other Issues

Unauthorized Trips

One union official traveled to Las Vegas, Nevada for a meeting without obtaining membership approval. As previously stated, the constitution requires membership approval for those disbursements that are not related to the normal and regular operation of the union.

I am not requiring that Local 177 file an amended LM report for 2008 to correct the deficient items, but Local 177 has agreed to properly report the deficient items on all future reports it files with OLMS.

I want to extend my personal appreciation to Sheet Metal Workers Local 177 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.

Mr. Thomas Russell
October 5, 2009
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Sincerely,



Investigator

cc: Jan Jennings, Attorney
A. Jack Farmer, Accountant
David Vineyard, President