



June 24, 2013

Mr. John Helak, Business Manager
Sheet Metal Workers, AFL-CIO
Local Union 71
24 Liberty Avenue
Buffalo, NY 14215

Case Number: 120-09270 ()
LM Number: 009-822

Dear Mr. Helak:

This office has recently completed an audit of Sheet Metal Workers, Local 71 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 Office Secretary Melissa Bishop and you on June 17, 2013, 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 Local 71's 2012 records revealed the following recordkeeping violation:

Lost Wages

Local 71 did not retain adequate documentation for lost wage reimbursement payments to union officers and employees on only a couple of occasions. The union must maintain records in support of lost wage claims that identify each date lost wages were incurred, the number of hours lost on each date, the applicable rate of pay, and a description of the union business conducted. The OLMS audit found that Local 71 required a voucher for some lost time wages; however the number of hours and the rate of pay were not recorded. In other instances, a voucher was not prepared and did not identify the dates, hours, rate, and reason for the loss.

During the exit interview, I explained the procedure should be the same for all payments made for lost time claims. If a voucher will be used to document such wages for some, the voucher system should be used for all payments made in support of lost wage claims.

Based on your assurance that Local 71 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 71 for the fiscal year ended December 31, 2012, was deficient in the following areas:

1. Disbursements to Officers and Employees (LM-2)

Local 71 did not properly report payments to officers and employees in the appropriate columns of Schedule 11 (All Officers and Disbursements to Officers) and Schedule 12 (Disbursements to Employees) for salary and lost wages. It appears that the local erroneously reported all referenced payments in Column E or F of Schedule 11 and 12. The union should report all wages and gross salaries in Column D of the appropriate schedule.

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.

2. Failure to Itemize Disbursements or Receipt (LM-2)

Local 71 did not properly report several “major” transaction(s) in Schedule(s) 15 (Representational Activities) and 18 (General Overhead). A “major” transaction includes any individual transaction of \$5,000 or more or total transactions to or from any single entity or individual that aggregate to \$5,000 or more during the reporting period and which the local cannot properly report elsewhere in Statement B (Receipts and Disbursements). The audit found that the union made several large payments during the period for Market Recovery which were either not itemized on Schedule 15 or were reported improperly. For example, a total of \$20,000 was paid to Niagara University during the period; however the payee was not listed on the form.

3. Failure to Report Vacation Funds

Sheet Metal Workers Local 71 maintains a vacation fund account which is used to transmit funds received through a check-off arrangement with the contractor to a credit union as vacation monies for members. Although all monies deposited to the account are subsequently transmitted on behalf of members to the credit union, the amounts collected and disbursed should be reported on the LM-2 Form. The audit revealed the amounts in this account were not reported as receipts and disbursements on Statement B.

Local 71, with assistance from the union’s accountant, has agreed to complete an amended Form LM-2 for the fiscal year ended December 31, 2012, to correct the deficient items discussed above. As you are aware, the report must be filed electronically using the Electronic Forms System (EFS) available at the OLMS website at www.olms.dol.gov. The amended Form LM-2 should be filed no later than July 31, 2013. Before filing, review the report thoroughly to be sure it is complete and accurate.

Other Violation

The audit disclosed the following other violation:

Inadequate Bonding

The audit revealed a violation of LMRDA Section 502 (Bonding), which requires that union officers and employees be bonded for no less than 10 percent of the total funds those individuals or their predecessors handled during the preceding fiscal year.

Local 71’s officers and employees are currently bonded for \$225,000, but they must be bonded for at least \$306,923. Local 71 should obtain adequate bonding coverage for its officers and employees immediately. Please provide proof of bonding coverage to this office as soon as possible, but not later than July 31, 2013.

I want to extend my personal appreciation to Local 71 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.

Sincerely,

A solid black rectangular redaction box covering the signature of the investigator.

Investigator