

**U.S. Department of Labor**

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October 27, 2008

Mr. Robert Mitchell, President  
UAW Local 291  
1118 High Street  
Oshkosh, WI 54901

LM File Number: 040-620  
Case Number: [REDACTED]

Dear Mr. Mitchell:

This office has recently completed an audit of UAW Local 291 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, Financial Secretary John Zink, and Bookkeeper and Trustee Susan Schultz on October 3, 2008, 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 291's 2007 records revealed the following recordkeeping violation:

Receipt Dates not Recorded

Local 291 records its receipts and disbursements in Roberts Custom Software. However, monies received are typically deposited once per month at the end of each month. Payments are recorded in union records at the end of the month and are dated with the date the union deposited money, rather than the date money was received. Union receipts records must show the date of receipt. The date of receipt is required to verify, explain, or clarify amounts required to be reported in Statement B (Receipts and Disbursements) of the LM-3. The LM-3 instructions for Statement B state that the labor organization must record receipts when it actually receives money and disbursements when it actually pays out money. Failure to record the date money was received could result in the union reporting some receipts for a different year than when it actually received them.

Based on your assurance that Local 291 will properly record its receipts in the future, OLMS will take no further enforcement action at this time regarding the above violation.

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 LM-3 filed by Local 291 for fiscal year ending December 31, 2007 was deficient in the following areas:

1. Subsidiary Organization

Item 10 (Subsidiary Organizations) was answered "yes", however during the opening interview on August 4, 2008, you stated that Local 291 has never had a subsidiary organization as defined in section X of the LM-3 instructions.

Section X of the LM-3 instructions (pages 2-3) defines a subsidiary organization as any separate organization of which the ownership is wholly vested in the reporting labor organization or its officers or its membership, which is governed or controlled by the officers, employees, or members of the reporting organization, and which is wholly financed by the reporting labor organization. An example of a subsidiary organization is

a building corporation which holds title to a building and the labor organization owns that building corporation, selects the officers, and finances the operation of the building corporation.

## 2. Acquire or 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?) was answered "no" but should have been answered "yes" because during the fiscal year ending December 31, 2007, Local 291 gave away more than \$1,500 worth of Christmas gifts to members' children at the annual Children's Christmas Party.

Local 291 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 "members' children."

## 3. Disbursements to Officers and Employees

Local 291 did not include a payment of \$312.62 to John Zink in Item 24 (All Officers and Disbursements to Officers). It appears that Local 291 erroneously reported this payment in Item 54 (Other Disbursements).

Most direct disbursements to Local 291 officers and some indirect disbursements made on behalf of its officers in must be reported in Item 24 (Column E). 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).

During the exit interview, Ms. Shultz advised that there is no bookkeeping category that is set up within Roberts Custom Software (RCS) to allow the union to track direct payments to officers (other than salary and per diem). She also advised that the software

is set up in this way because it is the policy of the UAW to pay for all disbursements by union check directly to the vendor and therefore there is not a need for a bookkeeping category that addresses non-salary payments to officers. It appears that, on occasion, it was necessary to reimburse an officer or make a non-salary payment to him during the course of normal union business.

The audit also revealed that monthly salaries that were paid to officers during the reporting period were inaccurately reported in Item 24 Column E (Allowances and Other Disbursements).

During the opening interview, you stated that the monthly "expense" payment that each of the officers received was compensation for their duties as officers of Local 291, and is not for the purpose of reimbursing them for any particular allowance or expense. Local 291 does not require the officers to keep records, such as receipts, that support the payment and therefore the payment is considered salary and not an expense payment for purposes of LM reporting.

Gross salary amounts, including monthly salaries and lost wages, must be reported in Item 24, Column D.

I am not requiring that Local 291 file an amended LM report for 2007 to correct the deficient items, but Local 291 has agreed to properly report the deficient items on all future reports it files with OLMS.

#### Other Issues

##### 1. Women's Committee Holiday Fundraiser

The audit revealed that during the audit year, the Women's Committee of Local 291 initiated a fundraiser with the intention of collecting money from Local 291 members that would be used to purchase gifts and other items for several families in need within the local. As stated by Ms. Schultz during the exit interview, the cash that was collected from the membership was not deposited into the local's treasury; rather the cash was used to purchase the gifts and other items.

It is unclear whether the fundraiser was a Local 291 endorsed event or if it was a separate and distinct effort made by a few members of the woman's committee. If Local 291 embraces this annual fundraiser as a union endorsed and sponsored event, then all money collected throughout the fundraiser should be properly receipted and deposited

into a union account. All disbursements made in relation to this fundraiser should be made by a union check and supporting documentation, such as receipts, must be retained.

## 2. Monthly Retiree Dinner

During the audit year, the manner in which the retiree chapter of Local 291 collected money for their monthly dinner event changed. Early in 2007, the retiree chapter collected cash in advance from their members and deposited the funds into the local's checking account. The monthly dinner expense was then paid for in full with a union check. However, several months into the year, the retiree chapter began collecting cash in advance from members and paying for the dinner in cash instead of running the money through the union's treasury and disbursing a check for the dinner expense.

As is true with the fundraiser held each year by the Woman's Committee, if Local 291 considers the monthly retiree dinner to be a Local 291 endorsed and sponsored event, all receipts received should be properly receipted and deposited into the union's treasury and disbursements should be made by check from the local's account. As an example, I advised you at the exit interview that the dinner would be considered a union sponsored event if Local 291 subsidized the cost of the dinner by paying for a portion of the bill because the retirees failed to collect enough money to cover the entire cost of the meal.

OLMS recommends that the all funds collected on behalf of Local 291 be deposited and all payments continue to be made by check.

I want to extend my personal appreciation to UAW Local 291 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,

  
Investigator

cc: Susan Schultz, Trustee and Acting Financial Secretary  
Ryan Compton, Trustee

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Leonard Anderson, Recording Secretary  
Jay Kopplin, UAW Representative