

U.S. Department of Labor

Employment Standards Administration
Office of Labor-Management Standards
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December 10, 2008

Mr. Mark Messier, President
State, County & Muni Empls, Local 853
46 Foster St. Unit 1
New Bedford, MA 02740

LM File Number: 540-497

Case Number: [REDACTED]

Dear Mr. Messier:

This office has recently completed an audit of State, County & Muni Empls Local 851 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 December 4, 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 State, County & Muni Empls Local 851's 2006 records revealed the following recordkeeping violations:

1. Expenses (General and Reimbursed)

Local 851 did not retain adequate documentation to identify the union purpose for expenses incurred by the union for rent, utilities, and arbitration. The local did not have receipts or invoices for approximately \$8,200 disbursed for rent and arbitration and at least \$482.12 paid to Sprint and Verizon for utilities. The local did not retain adequate documentation for reimbursed expenses incurred by the president and former treasurer totaling at least \$364.15.

As previously noted above, labor organizations must retain original receipts, bills, and vouchers for all disbursements. The president and treasurer (or corresponding principal officers) of your union, who are required to sign your union's LM report, are responsible for properly maintaining union records.

2. Failure to Record Receipts and Disbursements

Local 851 did not maintain a receipts or disbursements journal. 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 851 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. Local 851 and its responsible officers failed to file the required annual financial report for the fiscal year ending December 31, 2006 with the Secretary of Labor in violation of 29 U.S.C. 431(b).

State, County & Muni Empls Local 851 must file a Form LM-3 for fiscal year ending December 31, 2006 to clear the delinquency. I provided the local's vice president with a blank form and instructions, and advised that the reporting forms and instructions are available on the OLMS website (www.olms.dol.gov). The LM-3 should be submitted to this office at the above address as soon as possible, but not later than January 20, 2009. Before filing, review the report thoroughly to be sure it is complete, accurate, and signed properly with original signatures.

I want to extend my personal appreciation to State, County & Muni Empls Local 851 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,

Mark Letizi
District Director

cc: Ms. Joan Jones, Vice President