

U.S. Department of Labor

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July 16, 2008

Mr. Randall Billmeier, President
BAKERY, TOBACCO & GRAIN AFL-CIO
DISTRICT 2 SUGAR COUNCIL
P.O. Box 116
Bird Island, MN 55310

LM File Number: 515-228
Case Number: [REDACTED]

Dear Mr. Billmeier:

This office has recently completed an audit of District 2 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 Secretary-Treasurer Lavonne Froemke on July 7, 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 District 2's 2007 records revealed the following recordkeeping violation:

Receipt Information Not Recorded

District 2 received money from six different locals during 2007. On average, deposits were made every two months, with a total of ten deposits occurring during 2007. The source and amount of each receipt was generally recorded on bank deposit tickets. In addition, the date, source, and amount of each receipt was also recorded on a transaction history report and check register. However, in all receipts records it appears District 2 recorded the date money was deposited but not the date money was received. For instance, \$4,037.46 was deposited on March 21, 2007. Each of the District's receipt records indicates that the deposit was a combination of eight payments from four different locals. The receipt date listed for each receipt is the same as the day of deposit, March 21, 2007. However, it appears that not all of the payments were received on that date.

In addition, entries in District 2's receipt records are inconsistent. For example, a receipt entered into District 2's check register and transaction history indicates that \$1,603.43 was received from Local 372G on May 23, 2007. The purpose of the receipt is listed as "March 07 billing." Though the transaction history suggests this is an individual receipt, deposit slips and photocopied checks from Local 372G indicate this \$1,603.43 receipt is actually the combination of three checks numbered [REDACTED], [REDACTED], and [REDACTED]. In this instance, it appears that several payments were added together and recorded as one receipt in District 2's records.

As previously mentioned, labor organization must keep at least one record showing the date, amount, purpose, and source of each receipt money. This information is required to verify, explain, or clarify amounts required to be reported in Statement B (Receipts and Disbursements) of the LM-3. In addition, the LM-3 instructions for Statement B state that receipts must be recorded when money is actually received and disbursements must be recorded when money is actually paid out. Failure to record the date money was received could result in reporting some receipts for a different year than the one in which they were received.

Based on your assurance that District 2 will retain adequate documentation 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 (Form LM-3) filed by District 2 for fiscal year ending December 31, 2007, was deficient in the following areas:

1. Disbursements to Officers

District 2 did not include some reimbursements to former Secretary-Treasurer [REDACTED] totaling \$350 in the amounts reported Item 24 (All Officers and Disbursements to Officers). It appears these payments were erroneously reported in Item 48 (Office & Administrative Expense).

Most direct disbursements to District 2 officers and some indirect disbursements made on behalf of its officers must be reported in Item 24. 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).

2. Dues

District 2 failed to properly report dues receipts in Item 38 (Dues). According to union deposit tickets and transaction histories, District 2 collected \$379.50 in dues during the 2007 fiscal year. However, only \$248 was reported in Item 38. It appears that the amount reported did not include \$131.50 of dues collected from Local 369G in March of 2007.

3. Other Receipts

The receipts figure listed in Item 43 (Other Receipts) is underreported. According to union deposit slips and transaction histories, District 2 collected \$30,722.24 in arbitration and officer expense related receipts for transmittal to local unions reportable under Item 43. However, only \$27,691 was reported in Item 43.

4. Office & Administrative Expense

As previously mentioned, Item 48 (Office & Administrative Expense) erroneously included payments to Secretary-Treasurer [REDACTED] totaling \$350. In addition, Item 48 failed to include three annual meeting related expense payments totaling \$316.82. It appears the three meeting expenses were included in Item 49 (Professional Fees).

According to the LM-3 instructions, Item 49 (Professional Fees) is to include, "your organization's total disbursements for 'outside' legal and other professional services." Annual meeting expenses are not legal or professional fees and should be included in Item 48 (Office & Administrative Expense). Consequently, no amount should be reported in Item 49 and \$328.16 should be reported in Item 48.

5. Other Disbursements

The disbursements figure listed in Item 54 (Other Disbursements) is over reported. According to the District's transaction history and check register, the union disbursed \$30,615.88 in arbitration and officer expense transmittals to local unions reportable under Item 54. However, \$30,965 was reported in Item 54.

6. 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. District 2 amended its constitution and bylaws in 2007, but did not file a copy with its LM report for that year.

District 2 has now filed a copy of its constitution and bylaws.

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District 2 must file an amended Form LM-3 for fiscal year ending December 31, 2007, to correct the deficient items discussed above. I provided you with a blank form and instructions, and advised you that the reporting forms and instructions are available on the OLMS website (www.olms.dol.gov). The amended Form LM-3 should be submitted to this office at the above address as soon as possible, but not later than July 31, 2008. 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 District 2 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: Lavonne Froemke, Secretary-Treasurer