

U.S. Department of Labor

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July 6, 2009

Mr. William Marcavish, Business Manager
Asbestos Workers AFL-CIO
Local 84
835 Southeast Avenue, Suite B1
Tallmadge, Ohio 44278

LM File Number 542-749
Case Number: [REDACTED]

Dear Mr. Marcavish:

This office has recently completed an audit of Asbestos Workers Local 84 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 May 13, 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.

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 84's 2007 records revealed the following recordkeeping violation:

1. Meal Expenses

Local 84 did not require officers and employees to submit itemized receipts for meal expenses totaling at least \$134.74. The union must maintain itemized receipts provided by restaurants to officers and employees. These itemized receipts are necessary to determine if such disbursements are for union business purposes and to sufficiently fulfill the recordkeeping requirement of LMRDA Section 206.

Local 84 records of meal expenses did not always include written explanations of union business conducted or the names and titles of the persons incurring the restaurant charges. For example, an Applebee's restaurant receipt dated December 26, 2007 contains the names of the union officers present, but has nothing indicating their titles or the union business under discussion. Union records of meal expenses must include written explanations of the union business conducted and the full names and titles of all persons who incurred the restaurant charges. Also, the records retained must identify the names of the restaurants where the officers or employees incurred meal expenses.

2. Disposition of Property

Local 84 did not maintain an inventory of hats, jackets, and other property it purchased, sold, or gave away. The union must report the value of any union property on hand at the beginning and end of each year in Item 28 of the LM-2. The union must retain an inventory or similar record of property on hand to verify, clarify, and explain the information that must be reported in Item 28.

The union also failed to maintain receipts for the expenses and the items it purchased and gave away at its golf outing. The receipts are necessary to

determine if such disbursements are for union business purposes and to sufficiently fulfill the recordkeeping requirement of LMRDA Section 206.

The union must record in at least one record the date and amount received from each sale of union hats, jackets and other items. The union must also maintain receipts and record in at least one record the items that it gave away at its golf outing.

Based on your assurance that Local 84 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-2) filed by Local 84 for fiscal year ending December 31, 2007, was deficient in the following areas:

1. Disbursements to Officers

Local 84 erroneously calculated the amount of payments to officers in Schedule 11 (All Officers and Disbursements to Officers). The union charged some officers with more payments than they actually received, but credited other officers with fewer payments than they actually received.

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. Reporting of Dues Receipts as Per Capita Receipts

Local 84 improperly reported a portion of its dues receipts as per capita tax receipts in Statement B (Receipts and Disbursements). For reporting purposes, OLMS considers all dues monies received directly by a local, whether or not any of those dues monies are subsequently going to be sent to an intermediate body or parent body for per capita tax payments, as dues receipts. The local should not report such dues receipts as per capita tax receipts.

3. 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 84 amended its Local Union Autonomy (its bylaws equivalent) in 2005, but did not file a copy with its LM report for that year.

Local 84 has now filed a copy of its Local Union Autonomy.

I am not requiring that Local 84 file an amended LM report for 2007 to correct the deficient items, but Local 84 has agreed to properly report the deficient items on all future reports it files with OLMS.

Other Violations

The audit disclosed the following other violations:

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.

The audit revealed that Local 84's officers and employees were not bonded for the minimum amount required at the time of the audit. However, the union obtained adequate bonding coverage and provided evidence of this to OLMS during the audit. As a result, OLMS will take no further enforcement action regarding this issue.

Other Issues

During the audit, you noted that the local currently has only one officer, Treasurer Wayne Ellis, who can access its QuickBooks program. At minimum, the local should have at least two officers who can access its QuickBooks program, as financial checks and balances to one another. OLMS recommends that Local 84 review its procedures to improve internal control of union funds.

I want to extend my personal appreciation to Asbestos Workers Local 84 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: Jason Metz, Local 84 President