

U.S. Department of Labor
Employment Standards Administration

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August 30, 2006

Ms. Florence Lovell
Treasurer, Stage and Picture Operators, AFL-CIO
Local 289
1648 West Water Street
Elmira, New York 14905

Re: Case No.

Dear Ms. Lovell:

This Office has recently completed an audit of Stage and Picture Operators (IATSE), Local 289 under the Compliance Audit Program (CAP) to determine compliance with provisions of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA). As discussed during the exit interview with President David Siskin, Business Agent David Bailey and you on August 25, 2006, 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.

Title II of the LMRDA establishes certain reporting and recordkeeping requirements. Section 206 requires, among other things, that adequate records be maintained for at least 5 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, all records used or received in the course of union business must be retained. This includes, in the case of disbursements, not only the retention of original bills, invoices, receipts, and vouchers, but also adequate additional documentation, if necessary, 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 note can be written on it providing the additional information. An exception may be made only in those cases where 1) other equally descriptive documentation has been maintained, and 2) there is evidence of actual oversight and control over disbursements.

In the case of receipts, the date, amount, purpose, and source of all money received by the union must be recorded in at least one union record. Bank records must also be retained for all accounts.

The following record keeping violations were revealed during the audit of Local 289's 2005 records:

- Union officers and employees failed to maintain adequate documentation for reimbursed expenses. The date, amount, and business purpose of every expense must be recorded on at least one union record.

On several occasions, officers were reimbursed for meeting expenses, including refreshments, but there were no receipts retained in the union records. Handwritten receipts indicating the amount spent by the officer is not sufficient.

Bank deposits slips were not retained on every occasion. It was difficult to verify where the deposits originated from.

In addition, back up documentation was not retained to verify disbursements. All documentation needs to be retained for any disbursement from the union.

- Local 289 failed to record some of the assessments received from members. Union receipts records must include an adequate identification of each receipt of money. The records should show the exact date the money was received, the identity of the source of the money, and the individual amount received from each source.
- Local 289 failed to maintain an inventory of t-shirts which were purchased and sold or given away. Records must be maintained that account for all union property. In the case of t-shirts or other items sold to members, the date and amount received from every sale must be recorded in at least one record.

As agreed, provided that Local 289 maintains adequate documentation as discussed above in the future, no additional enforcement action will be taken regarding these violations.

I strongly urge Local 289 to adopt clear guidelines regarding how receipts are recorded into the union. The process that is in place is very convoluted and difficult to trace, leaving the union's finances susceptible to future abuse. During our closing interview, I gave several suggestions how to strengthen your internal controls and would recommend that the officers employ one of those methods.

The CAP 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 Local 289 for fiscal year ending December 31, 2005, was deficient in the following areas:

- Local 289 failed to include some reimbursements to officers and employees in Item 24 (All Officers and Disbursements to Officers). Such payments appear to have been erroneously reported in Item 48 (Office and Administrative Expense).

All direct disbursements to Local 289 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. An "indirect disbursement" to an officer is a payment to another party (including credit card companies) 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).

I am not requiring that Local 289 file an amended LM report for 2005 to correct the deficient items, but as agreed, Local 289 will properly report the deficient items on all future reports filed with this agency.

The CAP 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 constitution or bylaw changes are made.

- Local 289 amended its constitution and bylaws in 2000, but a copy was not filed with its LM report for that year.

A copy of Local 289's constitution and bylaws has now been filed.

The CAP disclosed a violation of the LMRDA Section 202 (a), which requires union officers to file an LM-30 report when applicable.

- Business Agent David Bailey is required to file an LM-30 due to his employment at Chemung Canal Trust Company, where the union holds its bank accounts. Additionally, if his wife, ██████████, is hired by GLN Tax Service to perform any work for them, an LM-30 would also have to be filed for that as well. You also indicated that other officers may also be required to file the LM-30. Please refer to the LM-30 instructions that were given to you at the closing interview. Should you have further questions, please contact our office for further clarification.

Please file an LM-30 for fiscal year 2005 by **September 30, 2006** for Business Agent Bailey and any other officer, spouse of that officer or minor child that this would apply to provided that they made more than \$250.

The CAP disclosed the following other violation(s):

- 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 handled by those individuals or their predecessors during the preceding fiscal year. Local

289's officers and employees are currently bonded for \$10,000, but they must be bonded for at least \$20,000.

Local 289 should obtain adequate bonding coverage for its officers and employees immediately. Please provide proof of bonding coverage to this office as soon as adequate coverage has been obtained, but not later than *September 25, 2006*.

I strongly recommend that you make sure that this letter and the compliance assistance materials that were provided to you are passed on to you, Mr. Siskin's, and Mr. Bailey's successors at whatever time you may leave office.

I want to thank you, Mr. Siskin and Mr. Bailey for their cooperation and courtesy during this compliance audit. If we can be of any assistance in the future, please do not hesitate to contact me or any other representative of our office.

Sincerely,



Investigator

cc: President David Siskin