

U.S. Department of Labor

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June 25, 2008

Mr. George Saltsman, Business Manager
Electrical -Workers, AFL-CIO IBEW
Local Union 139
508 College Avenue
Elmira, NY 14901

LM File Number: 035-321

Case Number: [REDACTED]

Dear Mr. Saltsman:

This office has recently completed an audit of Electrical Workers Local 139 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 Office Manager Judy Ottaviani, Office Assistant Kristine Van Fleet, and yourself on June 19, 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 IBEW Local 139's records for fiscal year 2007 revealed the following recordkeeping violations:

1. Meal Expenses

Local 139 did not require officers and employees to submit itemized receipts for meal expenses totaling at least \$1,520. 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.

Furthermore, Local 139's records of meal expenses were not supported with any documentation, except the credit card statement, totaling at least \$141. For example, the union failed to retain a receipt from Tioga Downs for \$32.37 and from Horigan's Tavern for \$86.44. Union records of meal expenses must include not only the itemized receipt but also written explanations of the union business conducted and the full names and titles of all persons who incurred the restaurant charges.

2. General Reimbursed and Credit Card Expenses

Local 139 did not retain adequate documentation for reimbursed expenses and credit card expenses incurred by Business Manager George Saltsman and Assistant Business Manager Ernest Hartman totaling at least \$852. For example, the union did maintain receipts for lodging at both the Hyatt Hotel in Atlantic City for \$558.85 and the Otesaga Hotel for \$270.

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.

Based on your assurance that the union 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. The Labor Organization Annual Report (Form LM-2) filed by IBEW Local 139 for fiscal year ending December 31, 2007 was deficient in the following areas:

1. Failure to Report Receipts and Disbursements

The union received monies from employers for the welfare, pension, annuity, and education funds of Local 139. These monies are later transferred to those funds' accounts. Local 139 did not report on the LM-2 the total receipts received on behalf of affiliates for transmittal to them in Item 46 on Statement B, Receipts and Disbursements. In addition, the local did not report the total disbursements to affiliates of funds collected on their behalf in Item 63 on Statement B. The amount not reported in each totaled at least \$4,500,000. The LM-2 report should show all cash received and all cash disbursed.

2. All Officers and Disbursements to Officers

All officers of Local 139 were not listed on the LM-2 report. All officers need to be listed on the report in Schedule 11 (All Officers and Disbursements to Officers). Whether they receive funds from the union. The union failed to report three newly elected executive board members.

3. Automobile Expenses

Local 139 did not include in the amounts reported in Schedule 11 (All Officers and Disbursements to Officers) and Schedule 12 (Disbursements to Employees) disbursements for the operation and maintenance of union automobiles totaling at least \$5,245. This amount for gasoline purchases at Exxon Mobil and Sunoco, as well as additional maintenance costs of the union autos, was erroneously reported on the Detailed Summary Page for Schedule 18 (General Overhead).

The LM-2 instructions provide two methods for reporting automobile-related expenses. The union must report in Schedules 11 and 12 direct and indirect disbursements for the operation and maintenance of union owned and leased vehicles and the operation and maintenance of vehicles owned by union personnel (including gasoline, repairs, and insurance). The union may divide the expenses and report them in Columns F and G based on miles driven for union business (supported by mileage logs) compared with miles driven for personal use.

Alternatively, rather than allocating the expenses between Columns F and G, if 50 percent or more of an officer's or an employee's use of a vehicle was for official business, the union may report all of the expenses relative to the vehicle assigned to the officer or employee in Column F of Schedule 11 or 12 with an explanation in Item 69 (Additional Information) that the officer or employee used the vehicle part of the time for personal business. Similarly, if a vehicle assigned to an officer or employee was used less than 50 percent of the time for business, all of the expenses relative to that vehicle may be reported in Column G with an explanation in Item 69 that the officer or employee used the vehicle partly for official business.

4. Failure to Itemize Disbursements

Local 139 did not properly report a "major" transaction(s) in Schedule 18, General Overhead. A "major" transaction includes any individual transaction of \$5,000 or more or total transactions to or from any single entity or individual that aggregate to \$5,000 or more during the reporting period and which the local cannot properly report elsewhere in Statement B. The audit found that on May 20, 2007 a check was issued to the U.S. Postmaster for \$6,000. This amount was not itemized on Schedule 18 but rather included in the non-itemized transactions for the U.S. Postmaster.

5. 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 139 amended its constitution and bylaws in 2007, but did not file a copy with its LM report for that year. Local 139 has now filed a copy of its constitution and bylaws.

Local 139 must file an amended Form LM-2 for fiscal year ending December 31, 2007, to correct the deficient items discussed above. I explained to you the filing procedures and the availability of filing software on the OLMS website (www.olms.dol.gov). The amended Form LM-2 must be electronically filed as soon as possible, but not later than July 15, 2008. Before filing, review the report thoroughly to be sure it is complete and accurate, and properly signed with electronic signatures.

Other Violation

The audit disclosed the following other violation:

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.

Local 139's officers and employees are currently bonded for \$200,000, but they must be bonded for at least \$500,000. The union currently handles funds for transmittal to affiliates on their behalf. This amount needs to be included in the funds handled for computing the bond. Local 139 should obtain adequate bonding coverage for its officers and employees immediately. Please provide proof of bonding coverage to this office as soon as possible, but not later than July 15, 2008.

Other Issues

1. Use of Signature Stamp/ Signing Blank Checks

During the audit, you advised that it is Local 139's practice for Treasurer Robert Holden to sign union checks using a signature stamp. In addition, it was revealed that the signatory officers, Robert Holden and President David Patton, sign blank checks. A two signature requirement is an effective internal control of union funds.

Its purpose is to attest to the authenticity of a completed document already signed. However, the use of a signature stamp for the second signer or signing blank checks does not attest to the authenticity of the completed check, and negates the purpose of the two signature requirement. OLMS recommends that Local 139 review these procedures to improve internal control of union funds.

2. Inventory of Fixed Assets

As discussed with you during course of the compliance audit and during the exit interview, it is recommended that the union maintain an inventory list of its assets. An inventory list will help you identify, account for, and determine the total value of your union's fixed assets. You agreed to compile such a list and a copy has been provided to OLMS.

I want to extend my personal appreciation to IBEW Local 139 for the cooperation and courtesy extended during this compliance audit. I strongly recommend that you make sure this letter and any 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

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