

U.S. Department of Labor

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November 13, 2008

John Perticone, Business Manager/Financial Secretary
Plumbers, AFL-CIO
Local Union 13
1850 Mt. Read Blvd.
Rochester, NY 14615

LM File Number: 055-764

Case Number: [REDACTED]

Dear Mr. Perticone:

This office has recently completed an audit of Plumbers & Steamfitters Local 13 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 Accountant Scott Birnie, Attorney Michael Harren, and you on November 5, 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 Plumbers Local 13 records for fiscal year ending December 31,2007 revealed the following recordkeeping violations:

1. General Disbursement Receipts

Local 13 did not retain adequate documentation for disbursements by check totaling at least \$6,691. For example there was no documentation for a check issued to Stephanie's Restaurant for \$2,166.80. In addition, there were no receipts for checks written to Amico's Pizza totaling \$3,840 during the audit year.

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. Credit Card Expenses

Local 13 did not retain adequate documentation for credit card expenses incurred by Business Manager John Perticone totaling at least \$881. For example, there was no bill retained for lodging at the Spa Hotel in Niagara Falls for one of three union's officers. In addition, there was no documentation for airfare purchased through United Air for \$424.60.

As, previously noted above, labor organizations must retain original receipts, bills, and vouchers for all disbursements, including those charged to the union credit card. A credit card statement is not considered adequate documentation.

3. Union Owned Vehicles

The union did not maintain records necessary to verify the accuracy of the information reported in Schedules 11 (All Officers and Disbursements to Officers) and 12 (Disbursements to Employees) of the LM-2.

The LM-2 instructions include specific rules for the reporting of automobile expenses. The union must report operating and maintenance costs for each of its owned or leased vehicles in Schedules 11 and 12 of the LM-2, allocated to the officer or employee to whom each vehicle is assigned.

For each trip they take using a union owned or leased vehicle, officers and employees must maintain mileage logs that show the date, number of miles

driven, whether the trip was business or personal, and, if business, the purpose of the trip.

4. Prizes and Gifts

The union failed to maintain proper records for door prize winners at the annual clambake and additional gifts given away during the year. A minimum of \$800 was spent on door prizes for the clambake. Although receipts were maintained for these funds, a list of prize winners should be maintained to verify the recipients of the prizes.

In addition, several gifts were purchased throughout the period including gift cards to Wegmans totaling \$6,200, and airline vouchers for former retired office secretary, Rosemary Tonkery, totaling \$1,500. Each transaction should be accompanied with a receipt. Additional documentation should be maintained to support the reason, approval, and recipient of each gift.

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 Plumbers & Steamfitters Local 13 for fiscal year ending December 31, 2007 was deficient in the following areas:

1. Disbursements to Officers and Employees

Local 13 did not include payments to officers and employees totaling at least \$1952 in Schedule 11 (All Officers and Disbursements to Officers) and Schedule 12 (Disbursements to Employees). It appears that the local erroneously reported these payments in Schedules 15 through 19. For example, former Office Secretary [REDACTED] received \$1,500 in airline vouchers as a retirement gift. This indirect disbursement to an employee should be reported in Column G (Other Disbursements) of Schedule 12.

In addition, the union reported Business Manager John Perticone in Schedule 12 (Disbursements to Employees), rather than on Schedule 11 (Disbursements to Officers). Perticone holds the position of Business Manager/Financial Secretary and is considered an officer both in the union's local bylaws and as defined under the LMRDA.

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. Automobile Expenses

Local 13 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 \$791 next to the officer's or employee's name.

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.

3. Failure to Itemize Disbursements

Local 13 did not properly report several "major" transactions in Schedule 18 (General Overhead) and/or other appropriate schedules. 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 Local 13 did not properly itemize payments to McGraw Hill totaling \$5,463 for a subscription to the Dodge Reports. In addition, payments to Quill Corporation and Pitney Bowes (Postage by Phone) both aggregated to \$5,000 or more during the reporting period, although were not itemized. Payments to Quill totaled \$6,978 and \$13,000 was disbursed to Postage by Phone. In addition, one individual transaction totaling \$16,400 was made to Smokey's Catering for the annual Clambake. This amount including any additional non-itemized transactions should be detailed on an Initial Itemization Page for the appropriate Schedule.

Several leasehold improvements were made to the building during the audit year. Some of these improvements including those to Carey Lathing & Acoustical, Rochester Flooring, and Crosby-Brownlie exceeded \$5,000 or more in total transactions. These transactions cannot be reported elsewhere on Statement B and therefore need to be properly itemized and reported on the Detailed Summary Page.

4. Payroll Withholdings

Local 13 failed to report in Schedule 11 (All Officers and Disbursements to Officers) and Schedule 12 (Disbursements to Employees) the total amount of withheld taxes, payroll deductions, and all other deductions. This amount should be entered on Line 8 and Line 9 respectively. In addition, on Statement B under Cash Disbursements, the union failed to report the amount of withholding taxes and other payroll deduction withheld and subsequently disbursed during the reporting period in Item 67 (Withholding and Other Payroll Deductions).

I am not requiring that Local 13 file an amended LM-2 report for 2007 to correct the deficient items, but Local 13 has agreed to properly report the deficient items on all future reports it files with OLMS.

Other Issue

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. This list should include the make, model, and serial numbers of all

union owned office equipment. You agreed to compile such a list and provide a copy to OLMS once completed.

I want to extend my personal appreciation to Plumbers Local 13 and Jeffers & Birnie 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,

[REDACTED]

Investigator

cc: Bruce Bowes, President
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