

U.S. Department of Labor

Office of Labor-Management Standards
Detroit District Office
211 West Fort Street
Suite 1313
Detroit, MI 48226
(313) 226-6200 Fax: (313) 226-4391



September 22, 2010

Mr. Robert Rutan, Business Manager/Financial Secretary
Plumbers AFL-CIO
Local 704
32500 West Eight Mile Road
Farmington, Michigan 48336

Case Number: [REDACTED]
LM Number: 025963

Dear Mr. Rutan:

This office has recently completed an audit of Plumbers Local 704 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 by Investigator Randal Cummings during the exit interview with you and attorney Michael Asher on March 29, 2010, 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 704's 2009 records revealed the following recordkeeping violations:

1. Lack of Salary Authorization

Local 704 did not maintain records to verify that the salaries reported in Schedules 11 (All Officers and Disbursements to Officers) and 12 (Disbursements to Employees) of the LM-2, for you, the business agent, president, vice president, apprentice coordinator, organizer, office manager, and any other officer or employee who received payments were the authorized amounts and, therefore, were correctly reported. The Constitution of the United Association (UA) and Local 704's Bylaws, which you stated govern the practices and procedures of Local 704, do not contain provisions for officer salaries. During the audit, the union was unable to provide documentation to support the salaries paid to officers or authorization for Local 704 to have hired and pay an employee (office manager) to perform the constitutional duties of the financial secretary/treasurer.

The union must keep a record, such as meeting minutes, to show the current officer/employee salaries authorized by the entity or individual in the union with the authority to establish salaries. Enclosed is a copy of OLMS Compliance Tip *Authorization of Salary and Paid Leave for Union Officials* for further guidance on this matter.

2. Lack of Weekly Allowance Authorization

Local 704 did not maintain records to verify that the \$100 weekly allowance paid to you and the \$50 weekly allowances paid to Mr. Herman, Mr. Trujillo, and Apprentice Coordinator Joe Duquet during the audit year were the correct authorized amounts. As previously noted, you stated that the UA Constitution and Local 704 Bylaws govern the practices and procedures of Local 704; however, neither the Constitution nor Bylaws contain provisions for weekly allowances. During the audit, the union was unable to provide documentation to support the allowances paid to these officers.

The union must keep a record, such as meeting minutes, to show the current allowances authorized by the entity or individual in the union with the authority to establish allowances. The guidance given in the OLMS Compliance Tip *Authorization of Salary and Paid Leave for Union Officials* is applicable to this matter, too.

3. Vacation Pay

During the audit, you stated that Local 704 does not have an established vacation policy for its officers; officers receive a weekly salary at a set rate regardless of whether an officer is on vacation or not; you approve all vacation requests; and that there is no accountability for vacation leave taken by Local 704 officers. The union's failure to document its vacation policy and to maintain vacation records for its officers make it impossible to

verify that the amounts reported in Schedule 11 (All Officers and Disbursements to Officers) of the LM-2 are the authorized amounts and, therefore, were correctly reported, and that no abuses of vacation leave occurred.

Authorization for these payments must be documented in the same fashion as salary payments and the union must keep some type of record that fully documents officer vacation leave usage. OLMS Compliance Tip *Authorization of Salary and Paid Leave for Union Officials* contains additional guidance on this matter.

4. Union-Owned Vehicles

Local 704 owns three Mercury Mountaineers, which were assigned during the audit period to you, Business Agent Greg Herman, and Vice President Tim Trujillo. Local 704 permits personal use of the vehicles. However, the union did not maintain records necessary to verify the accuracy of the information reported in Schedule 11 (All Officers and Disbursements to Officers) of the LM-2.

Local 704 incurred expenses for automobiles during 2009. However, Local 704 did not maintain records documenting business versus personal use of the union vehicles. Local 704's vehicle report is used to calculate the dollar value of fringe benefits added to an officer's annual salary for tax purposes. Because union officers do not maintain mileage logs, the entry made for personal use of the vehicle has always been a set rate of 2,500 miles.

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 Schedule 11 of the LM-2, allocated to the officer to whom each vehicle is assigned.

For each trip they take using a union-owned or -leased vehicle, officers 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.

5. Credit Card Expenses

Local 704 did not retain adequate documentation for credit card expenses incurred by officers. For example, you used your Visa credit card to make purchases from SRR Sirius Radio on February 13, 2009 (\$142.45), Carl's Golfland on July 16, 2009 (\$1,490.03), godaddy.com on August 23, 2009 (\$251.64), GTC Hotel on December 5, 2009 (\$283.16), and Sony Style Somerset on December 14, 2009 (\$1,793.34), but neither bills or invoices nor documentation that identified the purposes of the charges could be located in the union's records. In addition, Mr. Herman used his Visa credit card to purchase gas at

locations such as Meijer and Sunoco on numerous occasions in 2009, but receipts were not located in the union's records to support the expenses.

As previously noted above, labor organizations must retain original receipts, bills, and vouchers for all disbursements. Credit card charge slips and itemized receipts for each charge must be maintained and, if the necessary information is not shown on the charge slips and itemized receipts, then a record must be created that shows the date the expense was incurred, the name and address of the entity providing the goods or services, the goods or services received, the amount, and the nature or purpose of the union business that required the expense. 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. Enclosed is a copy of OLMS Compliance Tip *Union Credit Card Policy* for further guidance on this matter.

6. Failure to Adequately Record Receipts

Local 704 did not record adequate information in its receipts records about a \$2,400 bank deposit. Local 704's receipts records describe the purpose of the deposit as "Monies collected for apprentice testing." However, it failed to maintain a record that disclosed the date, source, and amount of each payment comprising the deposit. Union receipts records must include an adequate identification of all money the union receives, including the date, amount received, purpose, and source of the money.

7. Strike Fund Disbursements

A review of the operations and condition of Local 704's strike fund disclosed that disbursements consisted of \$40 picket line payments to members, \$275 payments to the NASI Health & Welfare Fund for self-pay insurance on various members, \$80 payments to members on the ballot committee, and credit card reimbursement payments to the Local 704 general fund. Local 704 failed to provide documentation that supported payments in the first three categories. As previously noted above, labor organizations must retain original receipts, bills, and vouchers for all disbursements that verify, clarify, or explain the nature of the union business requiring the disbursements, the goods or services received, and the identity of the recipient(s) of the goods or services. 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 Local 704 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(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 and bylaws. Local 704 amended its bylaws on September 10, 1997, but did not file a copy with its LM report for that year. Local 704 has now filed a copy of its bylaws.

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 704 for the fiscal year ended December 31, 2009, was deficient in the following areas:

1. Disbursements to Officers

Local 704 did not include some payments to officers in Schedule 11 (All Officers and Disbursements to Officers). For example, indirect disbursements for meal expenses totaling at least \$3,690.61 were not reported next to the names of those officers who purchased or partook in the meals. It appears that the local erroneously reported these payments in Schedules 15 through 19. In addition, Local 704 failed to report in Column (G) personal expenses totaling \$3,883.56 that you charged to the union's credit card that were not necessary for conducting union business. It appears that such expenses were erroneously reported as loans on Local 704's LM-2 report.

Local 704 must report in Column (D) the gross salary paid to officers and employees (before tax withholdings and other payroll deductions), including disbursements for "lost time" or time devoted to union activities.

The total allowances made by direct and indirect disbursements to each officer or employee on a daily, weekly, monthly, or other periodic basis must be reported in Column (E). A "direct disbursement" to an officer or employee is a payment made to an officer or employee in the form of cash, property, goods, services, or other things of value. An "indirect disbursement" to an officer or employee 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 or employee.

Local 704 must report in Column (F) direct disbursements to officers and employees for reimbursement of expenses they incurred while conducting union business. Group meal expenses may be allocated among the officers on whose behalf meals are purchased. Also include in Column (F) travel advances that are not considered loans as explained in the instructions for Schedule 2 (Loans Receivable). In addition, the union must report in Column (F) indirect disbursements made to another party for business expenses union personnel incur. However, the union may 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 (room rent charges only)

while traveling on union business. See the instructions for Schedule 11 for a discussion of certain direct disbursements to officers that do not have to be reported in Schedule 11.

Enter all other direct and indirect disbursements to each officer or employee in Column (G). Include all disbursements for which cash, property, goods, services, or other things of value were received by or on behalf of each officer and were essentially for the personal benefit of the officer and not necessary for conducting official business of the labor organization.

2. Automobile Expenses

Local 704 did not include in the amounts reported in Schedule 11 (All Officers and Disbursements to Officers) disbursements for the operation and maintenance of union-owned automobiles. Local 704 pays for all of the gas and maintenance on union-owned automobiles provided to officers for use on both union and personal business. For example, Local 704 erroneously reported gas purchased at Sunoco in Schedule 19 (Union Administration).

The LM-2 instructions provide two methods for reporting automobile-related expenses. The union must report in Schedule 11 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 use of a vehicle was for official business, the union may report all of the expenses relative to the vehicle assigned to the officer in Column (F) of Schedule 11 with an explanation in Item 69 (Additional Information) that the officer used the vehicle part of the time for personal business. Similarly, if a vehicle assigned to an officer 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 used the vehicle partly for official business.

3. Fund Transfers

Local 704 improperly recorded fund transfers to its general fund checking account from various union-controlled accounts, such as its organizing fund, as receipts in its journal, thereby affecting entries in Statement B (Receipts and Disbursements) on its LM-2 report. The purpose of Statement B is to report the flow of cash in and out of your organization during the reporting period. Transfers between separate bank accounts or funds do not

represent the flow of cash in and out of your organization. Therefore, these transfers should not be reported as receipts or disbursements.

I am not requiring that Local 704 file an amended LM report for 2009 to correct the deficient items. Local 704 has agreed to properly report the deficient items on all future reports it files with OLMS.

Other Issues

1. Vouchers

The LMRDA outlines general fiduciary responsibilities for officers and employees of labor organizations. Union officials occupy positions of trust and, therefore, must ensure that the union's funds and other assets are used solely for the benefit of the union and its members. To prevent, or at least inhibit, the misuse of their funds, most organizations install internal controls over the handling of their finances. A financial safeguard that Local 704 should consider is to require that a payment voucher be properly completed, approved, and supported by documentation before every disbursement of union funds. Payment vouchers should contain an explanation of the disbursement being made and invoices, bills, receipts, etc., that are being paid should be attached. Even where supporting records are not attached, the explanation included on the voucher may be useful in providing documentation concerning a particular disbursement represented by a canceled check.

2. Authorization and Approval of Disbursements

You advised during the opening interview that you are solely responsible for authorizing and approving disbursements of the local, with the exception of donation requests, which are approved by the executive board. For example, Local 704 hired Election Source to oversee Local 704's most recent officer election at a cost of \$4,630. A review of the local's membership meeting minutes during the audit period found that discussion about having a mail ballot election occurred at the July 2009 meeting, but no reference was made to the cost related to hiring an outside agency to handle the mail ballot election.

To improve internal financial controls and safeguard union assets by promoting transparency and accountability, Local 704 should adopt a policy that ensures that all or certain disbursements, say those over a certain amount, are brought before the executive board and/or membership for authorization and/or approval and that such authorizations and approvals are completely and accurately recorded in meeting minutes. Minutes of all membership and executive board meetings must clearly and accurately report any disbursements authorizations and approvals made at those meetings.

3. Personal Use of Credit Cards

The audit revealed that Local 704 permits officers to use union credit cards to pay for personal expenses. However, Local 704 does not have a clear policy regarding the types of expenses that may be charged to union credit cards. You explained that personal use of the credit card is acceptable as long as Local 704 receives repayment prior to the close of the billing cycle of the month during which purchases were made. Although officers promptly repaid Local 704 for the personal expenses charged, OLMS does not recommend policies that allow personnel to make personal purchases with union credit cards because this may lead to misuse of union funds. The OLMS Compliance Tip *Union Credit Card Policy* contains further guidance on this matter.

4. Personal Use of Union Cell Phones

During the audit, it was disclosed that you, Mr. Herman, Mr. Duquet, and Mr. Trujillo had union-issued cell phones that could be used for both union and personal business. Local 704 maintained all cell phone bills covering the period of the audit. However, the UA Constitution and Local 704's Bylaws, which you stated governs the practices and procedures of Local 704, does not contain any cell phone provisions. To safeguard union assets by promoting transparency and accountability, OLMS recommends that each union adopt a clear written cell phone policy properly authorized by the appropriate governing body(ies). This authorization must be documented in at least one union record. The documentation may be in the form of an annual authorization in the minutes of a local union, in the minutes of an executive board meeting, or, in some cases, in the union by-laws.

5. Use of Signature Stamp / Two Signatures on Checks

The audit disclosed that you are the only person who signs union checks. Local 704 Office Manager Cathy Albers may, with verbal approval, stamp your signature on union checks in your absence. These are not recommended financial practices. Local 704 is encouraged to adopt a policy requiring that all checks drawn on the union's bank account have a second signature and ensure that each signer fully understands that his fiduciary responsibilities demand that checks be signed only after they are completely filled out and he knows the purpose and legitimacy of each transaction.

6. Inaccurate Check Numbers

The audit revealed that Local 704 recorded the wrong check numbers on at least three supporting payment receipts totaling \$6,147.11. For example, check no. [REDACTED] for \$4,587.15 was issued to the NASI Health and Welfare Fund; however, check [REDACTED] was annotated on the receipt that supported the payment. 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 in sufficient detail to verify the information included in the report. In addition, the filing of a deficient annual financial report with OLMS can result from the use of inaccurate records to complete the report.

7. Unrecorded or Inaccurately Recorded Receipts

The audit disclosed that Local 704 did not record all miscellaneous bank credits in the receipts journal. For example, four return item chargebacks totaling \$2,607.56 that were included on bank statements were not recorded in the receipts journal. Also, the amounts of certain receipts were recorded differently in separate union receipts records. For example, on September 28, 2009, a receipt stub was completed showing a \$3,555.05 payment from the Local 704 Organizing Fund to the Local 704 General Fund for reimbursement of local organizer wages and expenses for April 2009. However, the entry in the local's receipts journal and the actual deposit reflected in the corresponding bank statement shows a payment of \$6,555.05.

It is very important that entries for the same transaction in different receipts records match to avoid discrepancies that may be time-consuming to resolve, especially as time passes, and, to the degree that such records are used to compile the union's LM report, to ensure the filing of an accurate and complete LM report that does not contain deficiencies that may require correction by way of an amended report.

8. Financial Committee Audits

During the exit interview, it was strongly recommended that the union's financial committee audit findings regularly be presented to the membership. This should improve internal financial controls by promoting increased transparency and accountability.

I want to extend my personal appreciation to Plumbers Local 704 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,

Ian Burg
District Director

Enclosures

Mr. Robert Rutan
September 22, 2010
Page 10 of 10

cc: Gasper Patrico, President