

U.S. Department of Labor

Employment Standards Administration
~~Office of Labor-Management Standards~~
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May 19, 2008

Mr. Dennis Boyde, President
Plumbers AFL-CIO
Local 788
PO Box 2018
Portsmouth, NH 03804

LM File Number: 501-892
Case Number: [REDACTED]

Dear Mr. Boyde:

This office has recently completed an audit of Plumbers Local 788 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 Business Manager Ernest Beauchesne and Vice President Douglas Lizotte on May 15, 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.

The CAP disclosed recordkeeping violations, reporting violations, and other issues:

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 788's 2006 records revealed the following recordkeeping violations:

1. Local Expenses

Local 788 did not retain adequate documentation for local expenses totaling at least \$16,138.88. For example, \$2,743.95 in per capita payment documentation, \$7,807.85 in office and administrative expense documentation, \$20.00 in gift documentation, and \$5,567.08 in officer expense documentation was not retained by the local.

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.

2. Failure to Record Receipts

Local 788 did not record in its receipts records some employer dues checkoff checks and other income received totaling at least \$7,285.60. For example, two dues check-off payments totaling \$2,704.00 were not recorded, and \$4,581.60 in dues and other income collected was not recorded in the local's receipt records. Union receipts records must include an adequate identification of all money the union receives. The records should show the date and amount received, and the source of the money.

3. Failure to Record Disbursements

Local 788 did not record in its disbursement records payments made totaling at least \$420.30. For example, the local did not record two check payments made during the fiscal year. Union disbursement records must include an adequate identification of all money the union disburses. The records should show the date, amount, payee, and reason for the disbursement.

4. Failure to Maintain Receipt Documentation

Local 788 did not retain at least \$4,319.16 in dues and other income received, recorded and deposited into local's bank account. Documentation must be retained to identify the source of the receipts, the individual who received the receipts for the union, and the date the receipts were received.

5. Bank Statements

Local 788 did not maintain checking account statements from Bank of America for February, November and December of 2007. Local 788 is required to maintain all bank statements.

6. Sale of Union Jackets

Local 788 did not maintain any documentation for an unspecified amount of disbursements and receipts regarding the sale of local union jackets. Local 788 is required to maintain all documentation for the sale of union jackets and other supplies.

Based on your assurance that Local 788 will retain adequate documentation in the future, OLMS will take no further enforcement action at this time regarding the above violations. However, the proper maintenance of union records is the personal responsibility of the individuals who are required to file Local 788's LM report. You should be aware that under the provisions of Section 209(a) of the LMRDA and Section 3571 of Title 18 of the U.S. Code, willful failure to maintain records can result in a fine of up to \$100,000 or imprisonment for not more than one year, or both. Under the provisions of Section 209(c) of the LMRDA and Section 3571 of Title 18 of the U.S. Code, willful destruction or falsification of records can result in a fine of up to \$100,000 or imprisonment for not more than one year, or both. The penalties provided in Section 209(c) and Section 3571 of Title 18 apply to any person who caused the violations, not just the individuals who are responsible for filing the union's LM report.

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-3) filed by Local 788 for fiscal year ending December 31, 2006, was deficient in the following areas:

1. Outside Audit

Item 14 (During the reporting period did your organization have an audit or review of its books and records by an outside accountant or by a parent body auditor/representative?) was incorrectly answered, "Yes." Local 788 did not have an audit or review of its books and records conducted by an accountant or parent body auditor/representative during 2006. As stated in the LM-3 report instructions, the term "audit or review" does not include providing assistance in developing a bookkeeping system, providing routine bookkeeping services, or merely compiling information from your organization's books and records to prepare the local's Form LM-3 or other financial reports. The audit revealed Local 788's books and records were not audited or reviewed.

2. Disbursements to Officers

Local 788 did not include some reimbursements to officers totaling at least \$5,516 in the amounts reported Item 24 (All Officers and Disbursements to Officers). It appears the union erroneously reported these payments in Item 54 (Other Disbursements).

Local 788 reported the names of some non-officers in Item 24 (All Officers and Disbursements to Officers). The union must report in Item 24 only persons who held officer positions during the year.

The union must report most direct disbursements to Local 788 officers and some indirect disbursements made on behalf of its officers 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. See the instructions for Item 24 for a discussion of certain direct disbursements to officers that do not have to be reported in Item 24. An "indirect disbursement" to an officer 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. 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).

3. Cash Reconciliation

It appears that the cash figures reported in Item 25 are not the cash figures according to the union's books after reconciliation to the bank statements. The instructions for Item 25 state that the union should obtain account balances from its books as reconciled to the balances shown on bank statements.

4. Reporting of Cash Receipts and Disbursements

Local 788 over-reported receipts by \$5,574 on their LM Report. Local 12012 under-reported disbursements by \$4,031.

At least \$4,223 in contributions, gifts, and grants were not correctly reported in Item 51 (Contributions, Gifts, and Grants). It appears the union erroneously reported these payments in Item 46 (Employees).

At least \$9,671 in office and administrative disbursements were not reported on the local's LM Report. It appears the union erroneously reported these payments instead in Item 54 (Other).

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 788 amended its constitution and bylaws in 2002, but did not file a copy with its LM report for that year.

Local 788 has now filed a copy of its constitution and bylaws.

Local 788 must file an amended Form LM-3 for fiscal year ending December 31,2006, to correct the deficient items discussed above. I provided you with a blank form and instructions, and advised you that the reporting forms and instructions are available on the OLMS website (www.olms.dol.gov). The amended Form LM-3 should be submitted to this office at the above address as soon as possible, but not later than May 30,2008. Before filing, review the report thoroughly to be sure it is complete, accurate, and signed properly with original signatures.

Other Issues

1. Failure to Maintain Voided Checks

Local 788 did not maintain all of its voided or unused checks during the audit year. Voided and blank checks are part of a union's internal control system and should be retained.

2. Violation of By-laws

Article IV Section 15 of Local 788's by-laws states: "There shall be a yearly audit of all finances of this Local Union by a Public Accountant. This report is to be read at a regular meeting of the Local Union and be available to the membership at all times." Local 788 did not have an audit conducted by a public accountant during the fiscal year.

3. LM-30 Report

As I discussed during the exit interview with Local 788, the audit revealed that the local's business manager must begin filing an LM-30 report under the Final Rule for fiscal years beginning August 16,2007 and thereafter. Plumbers 788 Business Manager received more than 250 hours a year for work done on the union's behalf paid by the local's employer as part of the union's contract with the employer. The local's business manager must file an LM-30 report within ninety days of the fiscal year ending December 31,2008 and each fiscal year thereafter.

I want to extend my personal appreciation to Plumbers Local 788 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,

Mark Letizi
District Director

cc: Business Manager Ernest Beauchesne
Vice President Douglas Lizotte