

U.S. Department of Labor

Employment Standards Administration
Office of Labor-Management Standards
Los Angeles District Office
915 Wilshire Boulevard
Room 910
Los Angeles, CA 90017
(213) 534-6405 Fax:(213) 534-6413



July 31, 2008
Mr. Masavi Perea, Financial Secretary
Roofers AFL-CIO Local 135
1917 E. Washington Street
Phoenix, AZ 85034

LM File Number: 032-932

Case Number: [REDACTED]

Dear Mr. Perea:

This office has recently completed an audit of Roofers AFL-CIO Local 135 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 you on July 31, 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 of the LMRDA and Title 29 of the Code of Federal Regulations (C.F.R.) Section 403.7 require, among other things, that labor organizations maintain adequate records for at least five years after reports are filed by which the information on the reports can be verified, explained, and clarified. Pursuant to 29 C.F.R. Section 458.3, this recordkeeping provision of the LMRDA applies to labor organizations subject to the requirements of the Civil Service Reform Act of 1978 (CSRA), as well. Therefore, as a general rule, labor organizations must retain 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 135's 2006 records revealed the following recordkeeping violations:

1. Credit Card Expenses

Local 135 did not retain adequate documentation for credit card expenses incurred by officers during the audit year. During two months for which credit card expenses were spot-checked (July and October 2006), receipts were present for some transactions while other transactions lacked any supporting documentation. 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 Labor Organization Annual Report (LM-2), are responsible for properly maintaining union records.

Based on your assurance that Local 135 will retain adequate documentation in the future, OLMS will take no further enforcement action at this time regarding the above violations.

Reporting Violations

Pursuant to 29 C.F.R., Section 458.3, the reporting requirement under 29 C.F.R. Section 403.2 (see Section 201(b) of the Labor-Management Reporting and Disclosure Act (LMRDA)) is made applicable to labor organizations subject to the requirements of the CSRA. This provision requires labor organizations to file annual financial reports that accurately disclose their financial condition and operations.

The Labor Organization Annual Report (Form LM-3) filed by Local 135 for the fiscal year ending December 31, 2006, was deficient in the following areas:

1. Form LM-2 Electronic Filing Requirement

Local 135 submitted Form LM-3 for the fiscal year ending December 31, 2006, reporting annual cash receipts of \$249,393 when annual receipts were determined through the audit to have been \$252,556 for that year; therefore, the local should have filed Form LM-2 electronically rather than filing the paper Form LM-3.

2. Disbursements to Officers and Employees

Local 135 did not include certain reimbursements made by officers (credit card disbursements) in the amounts reported on its submitted Form LM-3 in Item 24 (All Officers and Disbursements to Officers). It appears that the union erroneously reported credit card disbursements as Office/ Administrative Expenses (Item 48). On Form LM-3, the union must report most direct disbursements to Local 135 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).

On Form LM-2 (which the local should have filed instead of Form LM-3), 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.

3. Cash Reconciliation

It appears that the beginning cash figure reported in Item 25(a) was not the cash figure 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. In addition, the figures for audit year total receipts (Item 55) and total disbursements (Item 44) were understated in comparison with actual receipts and disbursements

as calculated during the audit. Sources of these reporting errors were identified during the audit. Corrected figures must be entered on the amended LM-2 report.

4. Failure to File Bylaws

Pursuant to 29 C.F.R. Section 458.3, the requirement under 29 C.F.R. Section 402.4 implementing LMRDA Section 201(a) is made applicable to labor organizations subject to the requirements of the CSRA. This provision requires labor organizations to file copies of any revised constitution and bylaws when it files its annual financial report. The audit disclosed a violation of this requirement. Local 135 amended its constitution and bylaws in 2005 but did not file the required copies with its LM report for either 2005 or 2006 (audit year). Local 135 filed a copy of its 2005 constitution and bylaws during the course of the audit.

Local 135 must file an amended Form LM-2 for fiscal year ending December 31, 2006, 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 for fiscal year 2006 must be electronically filed as soon as possible, but not later than August 15, 2008. Before filing, review the report thoroughly to be sure it is complete and accurate, and properly signed with electronic signatures. In addition, your Form LM-2 for fiscal year ending December 31, 2007 is delinquent; therefore, your local's fiscal year 2007 Form LM-2 must also be electronically filed as soon as possible, but not later than August 15, 2008.

Other Issues

1. Credit Card Policy

As I discussed during the exit interview with you, the audit revealed that Local 135 does not have a clear policy regarding types of expenses that may be charged to union credit cards, or for the types of supporting documentation and disclosure required for credit card activity. Furthermore, local bylaws in their current form do not appear to allow for credit cards, as Article IV, Section 4 states that, "All bills shall be paid by check or electronic check." OLMS recommends that the local ensure that credit cards are allowed per local bylaws and Roofers International Constitution provisions, and if allowed, that the local adopt written guidelines that do not conflict with these governing provisions.

2. Dual-Signature Requirement for Disbursements

Local 135 bylaws (Article IV, Section 4) require that all union disbursements require the signature of the Financial Secretary and the countersignature of the President or Vice President. Review of the local's audit year financial records disclosed that, although this requirement was satisfied for check disbursements, it was not satisfied for credit card disbursements, as the local Financial Secretary was the only officer authorized to use the credit card and responsible for reviewing credit card activity. As this practice may be a violation of bylaws, local officers are urged to review governing provisions to ensure that the local's credit card practices are in conformity with local bylaws and Roofers International Constitution provisions.

3. Annual Independent Audit Requirement

Local 135 bylaws (Article IV, Section 4) require the local Financial Secretary to arrange for an annual independent audit at the end of each year; however, no independent audit was done for the audit year. As this lapse was in violation of bylaws, local officers are urged to ensure that credit card practices are in conformity with local bylaws.

4. Meeting Minutes; Monthly Financial Reports

Meeting minutes (regular and executive board) were not readily available for certain audit year months in which meetings were held. In addition, adequately detailed financial information was not contained in meeting minutes as required by Article IV, Section 4 of local bylaws, which states that the Financial Secretary "shall announce during each meeting the receipts and expenditures since the last meeting, which shall be noted in the minutes of the meeting" and "shall report report all expenditures at the next following meeting." Instead, minutes were often sparse (especially membership meeting minutes), noting only that the financial report(s) were read and approved at the meeting. In addition, it was disclosed during the audit that the Financial Secretary prepared monthly written financial reports; however, none of these reports were maintained with minutes. In order to comply with bylaws and improve internal controls, officers should ensure that future membership and executive board meeting minutes contain adequately detailed financial information (including discussions and decisions on large or non-routine expenditures), and that any written financial reports are retained with their corresponding minutes.

I want to extend my personal appreciation to Roofers AFL-CIO Local 135 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,

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[REDACTED]
Investigator

cc: Mr. Juan Barranco, Local 135 President
Mr. Douglas Ziegler, Local 81 Business Manager / Roofers Regional VP