

U.S. Department of Labor

Employment Standards Administration
Office of Labor-Management Standards
Baltimore Resident Office
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August 3, 2006

Fred Swanner, President
United Auto Workers Local 239
1010 Oldham Street
Baltimore, MD 21224

Re: Case Number: ~~XXXXXXXXXX~~

Dear Mr. Swanner:

This office has recently completed an audit of Local 239 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 Kevin Pack and you on July 26, 2006, 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 adequate records be maintained for at least 5 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, all records used or received in the course of union business must be retained. This includes, in the case of disbursements, not only the retention of original bills, invoices, receipts, and vouchers, but also adequate additional documentation, if necessary, 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 note can be written on it providing the additional information. An exception may be made only in those cases where 1) other equally descriptive documentation has been maintained, and 2) there is evidence of actual oversight and control over disbursements.

In the case of receipts, the date, amount, and source of all money received by the union must be recorded in at least one union record. Bank records and canceled checks must also be retained for all accounts.

The audit of Local 239's 2004 records revealed the following recordkeeping violations:

1. Officer Expenses

A union officer failed to maintain adequate documentation for credit card expenses that were direct-paid by the union. Receipts must be maintained for all credit card purchases. The date, amount, and business purpose of every expense must be recorded on at least one union record. In addition, the names of individuals present for meal expenses and the locations (names of restaurants) where meal expenses were incurred must be recorded.

2. Other Expenses

Local 239 failed to retain adequate documentation for payments made for catering services. The date, amount, and business purpose of every expense must be recorded on at least one union record.

3. Receipts

Local 239 failed to retain in its records documents related to the receipt of money from the resale of baseball tickets. Union receipts records must include an adequate identification of each receipt of money. The records should show the exact date the money was received, the identity of the source of the money, and the individual amount received from each source.

4. Bank Statements

The local failed to retain all the bank statements for its certificates of deposit at [REDACTED]. All bank statements must be maintained.

As agreed, provided that Local 239 maintains adequate documentation as discussed above in the future, no additional enforcement action will be taken regarding these violations.

Reporting Violations

The CAP 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 audit revealed the following reporting violations:

1. Delinquent LM Report

The law requires unions to file a Labor Organization Annual Report (Form LM-2) within 90 days after the completion of the union's fiscal year. Since the union's fiscal year ended on December 31, 2005, the LM-2 report was due by March 31, 2006. However, the union's LM-2 report has still not been received. Local 239 must file a Form LM-2 for fiscal year ending December 31, 2005, as soon as possible, but not later than August 31, 2006. I explained to you the filing procedures and the availability of the filing software on the OLMS website (www.olms.dol.gov). Before filing, review the report thoroughly to be sure it is complete and accurate, and properly signed with electronic signatures.

2. Some Payments to Officers Not Properly Reported


On the LM-2 for the fiscal year ending December 31, 2004, Local 239 failed to include reimbursements made to an officer for the use of an American Express card in the amount reported in Schedule 9 (All Officers and Disbursements to Officers). Such payments appear to have been erroneously reported in Schedules 13 (Office and Administrative Expenses) or Schedule 15 (Other Expenses).

Direct disbursements to officers and employees for reimbursement of expenses incurred while conducting union business must be reported in Column F of Schedule 9 (Disbursements for Official Business). Note that this is Schedule 11 in the current LM-2 report. In addition, indirect disbursements made to another party (such as a credit card company) for business expenses incurred by union personnel must also be reported in Column F of Schedule 9. However, indirect disbursements for business expenses incurred for transportation by public carrier (such as an airline) and for temporary lodging expenses incurred while traveling on union business should not be reported here. Please refer to the LM-2 instructions on how to report these disbursements.

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I want to extend my personal appreciation to United Auto Workers Local 239 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,


Investigator

cc: Kevin Pack, Financial Secretary