

U.S. Department of Labor

Office of Labor-Management Standards
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October 7, 2009

Mr. Donald Sower, Financial Secretary
Auto Workers, AFL-CIO
Local 334
1690 Larch Street
Adrian, Michigan 49221

LM File Number: 020-816

Case Number: [REDACTED]

Dear Mr. Sower:

This office has recently completed an audit of UAW Local 334 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 August 7, 2009, 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 334's 2008 records revealed the following recordkeeping violations:

1. Invoices, Bills, and Receipts

Local 334 did not retain original invoices, bills, or receipts for union disbursements reviewed during the 2008 fiscal year for payments made to the UAW Labor Building Association, UAW Michigan CAP per capita tax, UAW Region 1-C per capita tax, UAW Region 1-C small parts per capita tax, UAW Region 1-C small parts arbitration fund, and the UAW Region 1-C Bowling Tournament. For example, payments of \$277.92 on June 9, 2008, \$277.90 on July 8, 2008, and \$276.90 on August 8, 2008, to the UAW Labor Building Association, and the payment of \$225 on December 12, 2008, to the Region 1-C Bowling Tournament were not supported by an invoice, bill, or receipt that justified the payments.

The union maintained check stubs to explain the disbursements and recorded the disbursements in its ledger; however, 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. Bingo Records

Local 334 failed to maintain all bingo records. The union was only able to provide bank statements and canceled checks for the months of February through May 2008, which did not adequately support/document the disbursements relating to bingo. The union failed to maintain the bingo monthly financial statements, bank statements and canceled checks for the months of June 2008 through December 2008, deposit tickets, withdrawal tickets, completed State of Michigan Bingo forms, and equipment purchase receipts.

Based on your assurance that Local 334 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 or bylaws. Local 334 revised its bylaws in 2005 and failed to submit a copy of the revised bylaws with its LM report in 2005. Local 334 has now filed a copy of its revised bylaws with OLMS.

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 334 for the fiscal year ending December 31, 2008, was deficient in the following areas:

1. Cash Reconciliation

It appears that the beginning and ending cash and assets figures reported in Items 25 (Cash) and 31 (Total Assets) are not the correct figures. The instructions for Item 25 state that all cash on hand, such as undeposited cash, checks, and money orders; petty cash; and cash in safe deposit boxes should be included. Cash on deposit includes funds in banks, credit unions, and other financial institutions, such as checking accounts, savings accounts, certificates of deposit, and money market accounts. Also to be included is any interest credited to your organization's accounts during the reporting period. The union should obtain account balances from its books as reconciled to the balances shown on bank statements.

2. Fees, Fines, Assessments & Work Permits

Local 334 failed to accurately record the total amount of initiation fees received during the audit period. Each new member is required to pay a \$20 initiation fee via the check-off method, which is included in the monthly dues payments received by the local. Of the \$20, the UAW International Union (IU) receives \$1. During the audit period, Local 334 received \$200 in initiation fees, but only recorded \$190 in Item 40 (Fees, Fines, Assessments & Work Permits). All such receipts must be recorded in their entirety and any subsequent disbursements to a third party must be shown as a disbursement.

3. Disbursements to Officers

Local 334 erroneously reported the gross salary paid to Lois Sower in Column (D) of Item 24 (All Officers and Disbursements to Officers) as \$981; during the reporting period, Sower's gross salary was \$1,046.80. The union also failed to include expense reimbursement payments to you totaling \$175.42 and Ms. Sower totaling \$87.70 in Column (E) of Item 24. Additionally, Local 334 credited Local 334 Trustee Christina Stoker as having received \$130.50 in compensation for her participation in audits conducted in January and July 2008, when in fact, Stoker only received \$65.25 for her services during the July 2008 audit. The union must report in Column (D) the gross salary paid to officers (before tax withholdings and other payroll deductions), including disbursements for "lost time" or time devoted to union activities. The union must report in Column (E) the total of all other direct and indirect disbursements to each officer other than salary, including allowances, disbursements which were necessary for conducting official business of

your organization, and disbursements for the personal benefit of the officer and not necessary for conducting official business of your organization.

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 for room rent charges only) or for transportation by a public carrier (such as an airline) for an officer traveling on union business may be reported in Item 48 (Office and Administrative Expense).

4. Disbursements to Employees

Local 334 did not disclose payments to employees in Item 46 (Disbursements to Employees), but rather included payments to employees in Item 24 (Officers and Disbursements to Officers). Employees include individuals other than officers who receive lost time payments even if the labor organization does not otherwise consider them to be employees or does not make any other direct or indirect disbursements to them. It includes lost time payments to union members who are not officers or employees.

For example, Local 334 erroneously included compensation to Local 334 member [REDACTED] totaling \$758.35 for her attendance at a UAW IU training held at its Black Lake facility, and compensation received by election committee people [REDACTED], [REDACTED], and [REDACTED] totaling \$51.00 in Item 24 (All Officers and Disbursements to Officers). Item 24 is a schedule to report payments to officers of the local, the total of which is then reported in Item 45 (To Officers). The total of all salaries, allowances, travel advances, and direct or indirect disbursements (less deductions for FICA, withheld taxes, etc.) to employees is reportable in Item 46 (To Employees).

5. Office and Administrative Expense

Local 334 overstated the amount of money it spent on office and administrative expenses by \$193 in Item 48 (Office and Administrative Expenses). The union must report its ordinary office and administrative expenses, for example, rent, utilities, office supplies, postage subscriptions, fidelity bond premiums, etc. For example, the union failed to report building rent payments to the Coach Light Estates totaling \$900 and the purchase of UAW IU supplies for the financial secretary in the amount of \$3.95. The union erroneously reported the expense payments for food and supply reimbursement received by you and [REDACTED] during the reporting period of \$175.42 and \$87.70, respectively, as office and

administrative expenses. These payments were reimbursement for purchases made by you and [REDACTED] which were necessary for conducting official business of your organization and should have been reported under Item 24(e) (Allowances and Other Disbursements) for each individual.

Local 334 must file an amended Form LM-3 for fiscal year ending December 31, 2008, to correct the deficient items discussed above. I provided you with a blank form and instructions, and discussed with you the availability of the reporting forms and instructions 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 October 30, 2009. Before filing, review the report thoroughly to be sure it is complete, accurate, and signed properly with original signatures.

Other Issues

1. Signing Blank Checks

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 union funds, most organizations install internal controls over the handling of their finances. During the audit, you admitted to having President Goll sign blank checks in advance. This is not a recommended financial practice and Local 334 is encouraged to adopt a policy ensuring that each signer fully understands that his/her fiduciary responsibilities demand that the checks be signed only after they are completely filled out and he/she knows the purpose and legitimacy of each transaction.

2. Lost Wages

The audit disclosed that there appears to be a discrepancy between Article #15 (Paying Bills and Expenses) of the local's bylaws which states that "The local union executive board shall direct the payment of all regular monthly bills and expenses of the local union and make disbursements not to exceed one hundred dollars (\$100.00)," and the payment of lost wages under Article #16 (Finances), Section C. You informed me that approval is not needed for lost wages to be received if the representative or member is performing necessary duties for and on behalf of the local during a time for which he/she would otherwise be compensated by the employer. Therefore, it appears that any disbursement for lost wages over \$100 would require executive board approval and failure to obtain such approval would be a violation of Article #15.

I recommend that the union amend its bylaws or obtain executive board/membership authorization to update its lost time policy so it clearly identifies the union positions which qualify for lost time payments, require prior approval of all lost time claims, and that

authorized and approved lost time payments be documented in the minutes of the membership and/or executive board meetings. The local must keep a record, such as meeting minutes, to show the current lost time policy authorized by the entity or individual in the union with the authority to establish a lost time policy.

3. Bingo

In June 2008, the membership of Local 334 voted to disassociate itself from sponsorship of the game of bingo; however, the bingo license from the State of Michigan continues to be registered in Local 334's name and is not due to expire until February 2009. President Goll stated that all future bingo licenses will be issued to the Lenawee County UAW Labor Building rather than Local 334. Until that date, it is a union account for which Local 334 is responsible for reporting its yearly receipts and disbursements on its LM-3 report. Upon transfer of the bingo license from Local 334 to the Lenawee County UAW Labor Building, the appropriate steps must be taken to ensure that UAW Region 1-C is aware of the account and properly reports all receipts and disbursements to the UAW IU for reporting purposes on its LM-2 report.

I want to extend my personal appreciation to Local 334 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 are passed on to future officers. If we can provide any additional assistance, please do not hesitate to call.

Sincerely,



Criminal Investigator

cc: Keith Goll, President