

U.S. Department of Labor

Employment Standards Administration
Office of Labor-Management Standards
Chicago District Office
230 South Dearborn Street
Room 774, Federal Office Building
Chicago, IL 60604
(312)596-7160 Fax: (312)596-7174



June 26,2008

Mr. Earl Calhoun, President
Auto Workers AFL-CIO
Local 428
503 E. Jackson Blvd.
Elkhart, IN 46516

LM File Number 044-112

Case Number: [REDACTED]

Dear Mr. Calhoun:

This office has recently completed an audit of UAW Local 428 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 June 25,2008, 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 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 428's 2006 records revealed the following recordkeeping violations:

1. General Reimbursed Expenses

Local 428 did not retain adequate documentation for reimbursed expenses and expenses incurred by the some of the union officers totaling at least \$1070.20. For example, vouchers # [REDACTED] reimbursed the president for a \$170.20 hotel bill; no receipt was submitted. Also, voucher # [REDACTED] reimbursed an officer \$300.00 for a Christmas party but no receipt was submitted.

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. Lost Wages

Local 428 did not retain adequate documentation for lost wage reimbursement payments to union officers on at least sixty-five occasions. As per page 12 of the UAW Basic Procedural Instructions for *Financial Officers*, lost time is reimbursed to a member on a "no-loss, no-gain basis." This means that the union official must be losing wages they were entitled to by the employer due to the performance of union duties.

The union must maintain records in support of lost wage claims that identify each date lost wages were incurred, the number of hours lost on each date, the applicable rate of pay, and a description of the union business conducted. The OLMS audit found that Local 428 provided lost time vouchers (UAW Form A-136) as required by the UAW International. However, no records were submitted to support claims by the several officers that they were entitled to overtime pay at time and a half or double time. Only five Union Business Leave of Absence Forms were submitted to OLMS as lost time documentation for the audit period. These forms (or a similar document signed by the employer) should be used for every Local 428 lost time claim to satisfy this recordkeeping requirement.

3. Receipt Dates not Recorded

Entries in Local 428's receipts journal reflect the date the union deposited money, but not the date money was received. Union receipts records must show the exact date of receipt. The date of receipt is required to verify, explain, or clarify amounts required to be reported in Statement B (Receipts and Disbursements) of the LM-3. The LM-3 instructions for Statement B state that the labor organization must record receipts when it actually receives money and disbursements when it actually pays out money. Failure to record the date money was received could result in the union reporting some receipts for a different year than when it actually received them.

The proper maintenance of union records is the personal responsibility of the individuals who are required to file Local 428'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 428 for fiscal year ending December 31, 2006, was deficient in the following areas:

1. Reporting of Assets, Elkhart Building Corporation

The union is one of four participating locals in the International UAW Elkhart Building Corporation (EBC). The union did not report the value of property on hand at the beginning and end of the year in Item 28 (Investments) of the LM-3.

An EBC attachment was included with your 2006 LM-3 report which listed \$8,482.00 of furniture and equipment as fixed assets. This number does not correspond to the value entered for fixed assets at the end of the fiscal year, \$8,854.00, and you could not explain the difference in values. Additionally, the report lists UAW Local 612 LM # 024-041, as a co-owner in the EBC. UAW Local 612 terminated on November 18, 2005 and could not have been participating in the EBC for fiscal year ended December 31, 2006.

Further investigation revealed the EBC files a separate LM-3 financial report under the LM file number (LM # 044-112) of UAW Local 428 and has done so since 1997. In addition to the separate LM-3 report for the EBC, all local union participants of the EBC have been filing their ownership in the EBC differently over the years.

In order to accurately and transparently report Local 428's assets, including the local's ownership in the EBC which may be in excess of \$30,000.00, an amended report will be required. Instructions for filing the amended report will be mailed to you separately in the near future.

2. 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 428 submitted an undated copy of its bylaws and indicated they had been amended within the last ten years. The bylaws on file with OLMS were dated 1991.

Local 428 has now filed a copy of its constitution and bylaws.

Other Issues

1. Use of Signature Stamp

The audit revealed that past president Jerry Nettrouer and Financial Secretary Sherry Bonney used signature stamps to sign vouchers, checks, and the Form LM-3 Labor Organization Annual Report for fiscal year ending December 31, 2005. Ms. Bonney stated that these stamps were only used by the owners of the stamps and were for convenience. OLMS does not recommend the use of signature stamps due to the difficulty involved in safe guarding against use by others. You

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indicated that the local no longer uses signature stamps. OLMS acknowledges this improvement in Local 428's internal controls.

I want to extend my personal appreciation to UAW Local 428 for the cooperation and courtesy extended during this compliance audit. I strongly reconunend 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: Sherry Bonney, Financial Secretary