U.S. Department of Labor

Office of Labor-Management Standards Buffalo District Office 130 South Elmwood Avenue, Suite 510 Buffalo, NY 14202 (716) 842-2900 Fax: (716) 842-2901



Case Number: | | | | | | |

LM Number: 069-372

September 16, 2011

Mr. Paul Schuh, CAP Director Auto Workers, AFL-CIO New York State CAP 35 George Karl Blvd. Amherst, NY 14221

Dear Mr. Schuh:

This office has recently completed an audit of Auto Workers, AFL-CIO, New York State CAP 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 Secretary Judi Erhardt and you on August 11, 2011, 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.

Reporting Violation

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 the New York State CAP Council for the fiscal year ended December 31, 2010, was deficient in the following area:

Disbursements to Officers and Employees

The New York State CAP Council did not include some payments and reimbursements to officers and employees totaling at least \$3,881 in the amounts reported Item 24 (All Officers and Disbursements to Officers) and in Item 46 (To Employees). It appears the union erroneously reported these payments in Item 48 (Office and Administrative Expense).

The audit found that the New York State CAP Council reimbursed several UAW Local Unions expenses and lost wages for their officers to attend NYS CAP Council meetings and events. These individuals were also officers and/or employees of the Council. These indirect payments by the Council should be reported on the Council's Form LM-3 next to the officers' name in Item 24, if they are an officer of the Council, or in total in Item 46, if they are not officers. An explanation should be provided in Item 56 (Additional Information) of such transactions. The NYS CAP Council should also advise the local unions to report such disbursements made to these individuals on Schedule 18 (General Overhead) or in Item 48 respectively on their Forms LM-2 or LM-3 since the payments to them are reported on another union's report and the local was reimbursed by the other organization.

The union must report most direct disbursements to NYS CAP officers and employees and some indirect disbursements made on behalf of its officers and employees in Item 24 and Item 46, respectively. A "direct disbursement" to an officer or employee is a payment made in the form of cash, property, goods, services, or other things of value. See the instructions for Item 24 and Item 46 for a discussion of certain direct disbursements to officers and employees that do not have to be reported in Item 24 and 46. An "indirect disbursement" to an officer or an employee 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.

I am not requiring that the New York State CAP Council file an amended LM-3 report for 2010 to correct the deficient items, but the Council has agreed to properly report the deficient items on all future reports it files with OLMS.

I want to extend my personal appreciation to the New York State CAP Council 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.

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Sincerely

cc: Mrs. Judi Erhardt, Secretary