

U.S. Department of Labor

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December 18, 2008

Mr. Martin Freeburg, President
Steelworkers, AFL-CIO
Local Union 5025
Niagara Plant Employees
110 24th Street
Niagara Falls, NY 14303

LM File Number: 052-851

Case Number: [REDACTED]

Dear Mr. Freeburg:

This office has recently completed an audit of Steelworkers, Local 5025, Niagara Plant Employees, 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 Bookkeeper Carmella Marinaccio, Council Member Kelly Bright, and yourself on December 16, 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 Steelworkers Local 5025's records for fiscal year ending April 30, 2008 revealed the following recordkeeping violation:

Credit Card Transactions

Local 5025 did not retain adequate documentation for expenses using the union's credit card at least \$394. For example, President Martin Freeburg did not retain a hotel bill for Holiday Inn for \$181.72. In addition, there were several charges at Wilson Farms and Sunoco by Bookkeeper Carmella Marinaccio for \$8.20 each for the purchase of stamps.

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.

Based on your assurance that Local 5025 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(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 Steelworkers Local Union 5025 for fiscal year ending April 30, 2008 was deficient in the following areas:

1. Disbursements to Officers

Local 5025 did not include some reimbursements to President Martin Freeburg totaling at least \$147 in the amounts reported Item 24 (All Officers and Disbursements to Officers). It appears the union erroneously reported these payments in Item 54 (Other Disbursements).

The union must report most direct disbursements to Local 5025 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).

2. Failure to Report Receipts

The local failed to report cash receipts totaling at least \$181 in Item 43 (Other Receipts). The union receives a few small reimbursements from the International Union and other-related sources which were not reported as other receipts on the LM-3.

3. Per Capita Tax

Local 5025 failed to report the amount of per capita tax paid during the fiscal year in Item 47 (Per Capita Tax). The union paid per capita tax to the International Union totaling \$26,230. It appears the union erroneously reported these payments in Item 54 (Other Disbursements).

I am not requiring that Local 5025 file an amended LM-3 report for fiscal year ending April 30, 2008 to correct the deficient items, but Local 5025 has agreed to properly report the deficient items on all future reports it files with OLMS.

Additionally, the audit disclosed a violation of LMRDA Section 201(a), which requires an amended LM-1 Report be filed if there have been any changes in practices and procedures and any affiliation changes with the union.

Niagara Plant Employees affiliated with the Steelworkers Union in 2006 and has since been operating under the title, Steelworkers Local Union 5025. The union has not filed an amended LM-1 to advise OLMS of the changes.

Currently, the union is operating on an April 30th fiscal year; most Steelworkers locals report on a December 31st fiscal year. The union indicated that they will be changing the fiscal year on the amended LM-1 and begin operation on a calendar year starting January 1, 2009. Therefore, Local 5025's LM-3 Report would be due 90 days after the end of the calendar year, and include information from May 1, 2008 through December 31, 2008.

Local 5025 must file an amended Form LM-1, noting the affiliation change of Niagara Plant Employees and any additional changes. I explained to you the filing procedures and the availability of additional information on the OLMS website (www.olms.dol.gov). The amended Form LM-1 must be filed as soon as possible, but not later than January 16, 2009. Before filing, review the report thoroughly to be sure it is complete and accurate, and properly signed with original signatures.

Other Issues

1. Use of Union Debit/Credit Cards

The audit revealed that Local 5025 has union credit cards assigned for use to Bookkeeper Carmella Marinaccio and President Martin Freeburg. Although only union expenses are purchased using the credit card, it is the understanding of OLMS that the Steelworkers International Union does not permit the use of credit cards within its' subordinate bodies. OLMS recommends that the local union refer to the written guidelines of the Steelworkers International Union concerning such matters and abide by the policies of the parent body.

2. Signature Requirements

Steelworkers International Union has guidelines surrounding the required number of signatories to appear on local union checks. Currently Local 5025 requires two signatures on checks; however the International Union's policy requires three signatures. Again, OLMS recommends that the union refer to the written

guidelines of the International Union concerning this matter to be in conformity with policies of the parent organization.

I want to extend my personal appreciation to Carmella Marinaccio and you for the cooperation and courtesy extended during this compliance audit. I strongly recommend that you make sure this letter and any 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

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