

U.S. Department of Labor

Employment Standards Administration
Office of Labor-Management Standards
Kansas City Resident Investigative Office
Two Pershing Square Building
2300 Main Street, Suite 1000
Kansas City, MO 6408
(816) 502-0290 Fax: (816) 502-0288



April 24, 2009

Mr. Michael Martinez, President
Transportation Union IND
Local 1409
3711 Hunters Hill Road
Lawrence, KS 66049

LM File Number 005-444

Case Number: [REDACTED]

Dear Mr. Martinez:

This office has recently completed an audit of UTU Local 1409 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-Treasurer Barry Pittman on April 16, 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 1409's 2008 records revealed the following recordkeeping violations:

1. General Reimbursed Expenses

Local 1409 did not retain adequate documentation for reimbursed expenses to the vice-local chairman totaling at least \$1,041.04. The local also failed to maintain back-up documentation and membership approval for two \$500.00 disbursements to [REDACTED].

As previously noted, labor organizations must retain original receipts, bills, and vouchers for all disbursements. The president and treasurer of your union, who are required to sign your union's LM report, are responsible for properly maintaining union records.

2. Disposition of Property

Local 1409 did not maintain an inventory of Bibles it purchased or gave away. The union must report the value of any union property on hand at the beginning and end of each year in Item 28 of the LM-2. The union must retain an inventory or similar record of property on hand to verify, clarify, and explain the information that must be reported in Item 28.

3. Receipt Dates not Recorded

Entries in Local 1409's cash receipts register reflect the date the union deposited money, but not the date money was received. Union receipts records must show the 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-2. The LM-2 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.

Based on your assurance that Local 1409 will retain adequate documentation in the future, OLMS will take no further enforcement action at this time regarding the above violations.

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. Federal law requires your labor organization to file an annual LM report at the end of each fiscal year. Your local failed to file a report for 2008. This was discussed during the exit interview where I provided the secretary-treasurer with compliance assistance materials regarding officer obligations under the law.

Local 1409 must file a Form LM-2 for fiscal year ending December 31, 2008. I explained to the secretary-treasurer the filing procedures and the availability of filing software on the OLMS website (www.olms.dol.gov). The Form LM-2 must be electronically filed as soon as possible, but not later than May 18, 2009. Before filing, review the report thoroughly to be sure it is complete, accurate and properly signed with electronic signatures.

The local was unaware 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 1409 amended its constitution and bylaws in 2008, but did not know they were required to file a copy with its LM report for that year. A copy of the revised bylaws was obtained during the course of the audit.

Other Issues

1. Duplicate Receipts

Members of Local 1409 pay insurance premiums directly to the union. The secretary-treasurer records the payments in the union's cash receipts register, but

he does not issue receipts to the payers. OLMS recommends that Local 1409 use a duplicate receipt system where the union issues original pre-numbered receipts to all members who make payments directly to the union and retains copies of those receipts. A duplicate receipt system is an effective internal control, because it ensures that a record is created of income which is not otherwise easily verifiable. If more than one duplicate receipt book is in use, the union should maintain a log to identify each book, the series of receipt numbers in each book, and to whom each book is assigned.

2. Signing Blank Checks

During the audit, the secretary-treasurer advised me that the former president signed blank checks. Your local requires that all checks be signed by the president and treasurer. The two signature requirement is an effective internal control of union funds. Its purpose is to attest to the authenticity of a completed document already signed. However, signing a blank check in advance does not attest to the authenticity of a completed check and negates the purpose of the two signature requirement. For example, the former secretary-treasurer issued himself an unauthorized check on December 18, 2008 for \$347.25. This check was written despite the membership voting to not approve this disbursement. The former secretary-treasurer was able to write himself this check because the former president had already pre-signed blank checks. OLMS will not take further enforcement action regarding the unauthorized check, but recommends that Local 1409 review these procedures to improve internal control of union funds.

I want to extend my personal appreciation to UTU Local 1409 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: Barry Pittman, Secretary-Treasurer