



Fiduciary and Legal Responsibilities

Oath of office is acceptance of fiduciary responsibility

I solemnly pledge on my honor, to perform the duties of my office as required by the Constitution of the Transport Workers Union of America; to bear true and faithful allegiance to the International and the Local Union and the cause of all organized labor; not to divulge or make known any private proceedings of this Union; to perform faithfully all the duties assigned to me to the best of my ability; to deliver to my successor in office all books, papers and other property of the Union in my possession at the end of my term; to conduct myself at all times as becomes a member and officer of the Transport Workers Union; and to discharge all my obligations to the end that victory shall crown all our efforts.

Fiduciary responsibilities

Memorize and repeat often:

“It’s not your money.”

- Your fiduciary responsibility requires you to hold the assets of the Local in trust, to see that the Local’s money is spent only for a **proper purpose**, and to account for all expenditures of the Local’s assets.
- All Local officers are held accountable.

Fiduciary responsibilities

- All TWU locals must follow Labor Management Reporting and Disclosure Act (LMRDA) standards even if they are not subject to Department of Labor reporting.
- Following these standards will insure that all TWU locals are in compliance with other standards including those of the IRS to which all locals are subject.

Fiduciary responsibility – LMRDA (Section 501 a)

Officers, agents, shop stewards, and the other representatives of a labor organization, who occupy **positions of trust** in relation to the union and its members are required to perform 5 duties according to the law:

Fiduciary responsibility – LMRDA (Section 501 a)

1. “to hold its money and property solely for the benefit of the organization and its members”
2. “to manage, invest, and expend its money and property in accordance with its constitution and bylaws and any resolutions of the governing bodies adopted thereunder”

Fiduciary responsibility – LMRDA (Section 501 a)

3. “to refrain from dealing with such organization as an adverse party in any manner connected with his/her duties”
4. “to refrain from holding or acquiring any pecuniary or personal interest which conflicts with the interests of the organization”

Fiduciary responsibility – LMRDA (Section 501 a)

5. “to account to the organization for any profit received by him/her in whatever capacity in connection with transactions conducted by him/her or under his/her direction on behalf of the organization”

Fiduciary responsibilities

“The president and treasurer or the corresponding principal officers of the labor organization required to sign Form LM-2 are personally responsible for its filing and accuracy. Under the LMRDA, officers are subject to criminal penalties for willful failure to file a required report and for false reporting. False reporting includes making any false statement or misrepresentation of a material fact while knowing it to be false, or for knowingly failing to disclose a material fact in a required report or in the information required to be contained in it or in any information required to be submitted with it.

” The reporting labor organization and the officers required to sign Form LM-2 are also subject to civil prosecution for violations of the filing requirements. “

Department of Labor LM-2 Instructions

LMRDA is a criminal law

- In 2015 the U.S. Department of Labor completed 243 criminal investigations resulting in 83 indictments and 68 convictions.
- Some involved election irregularities, but most were for embezzlement or larceny

http://www.dol.gov/olms/regs/compliance/annualreports/highlights_11.htm

LMRDA is a criminal law

Former Union Officer Sentenced to Prison for Embezzling over \$273,000, Forgery, and False Records

- The investigation found that ... used the union's debit card for personal expenses, such as a home theater system, a family vacation, and iPods. He also stole more than \$70,000 through cash withdrawals, falsified the union's financial records and Form LM-2 reports that he filed with DOL, and forged checks to himself and family members. The investigation was conducted jointly with the Internal Revenue Service – Criminal Investigation.
- He was sentenced to 18 months of incarceration, three years of probation, and was ordered to pay \$273,489 in restitution and a \$425 special assessment.

Enemies of labor use this information



TRANSPORT WORKERS

- BASIC INFO**
- FINANCIALS**
- SPENDING**
- MEMBERS & DUES**
- LEADERS & SALARIES**
- POLITICAL SPENDING**
- CRIME & CORRUPTION**

CRIME, CORRUPTION & RACKETEERING

The Office of Labor-Management Standards (OLMS) conducts investigations to determine if violations of the Labor-Management Relations and Disclosure Act (LMRDA) provisions have occurred.

FINANCIALS

The Office of Labor-Management Standards (OLMS) conducts audits to determine if violations of the Labor-Management Relations and Disclosure Act (LMRDA) provisions have occurred.

CRIME, CORRUPTION & RACKETEERING

The Office of Labor-Management Standards (OLMS) conducts investigations to determine if violations of the Labor-Management Relations and Disclosure Act (LMRDA) provisions have occurred.

Investigations are initiated based on various sources such as complaints from union members; information developed by OLMS as a result of reviewing reports filed; information developed during an OLMS audit of a union's books and records; and information obtained from other government agencies. Investigations may involve civil matters (such as an election of union officers) or criminal matters (such as embezzlement of union funds).

CORRUPTION AND EMBEZZLEMENT CHARGES

Type of Criminal Activity	Number of Incidents
criminal charges	8
embezzlement charges	7
Guilty Pleas	8
Indictments	4

FINANCIAL AUDITS

The Office of Labor-Management Standards (OLMS) has responsibility under the Labor-Management Relations and Disclosure Act (LMRDA) to conduct audits to determine if unions are complying with the law.

OLMS uses a streamlined audit approach called the Compliance Audit Program (CAP) to audit local unions which utilizes specialized records review and investigative techniques to verify LMRDA compliance.

Local	Date	View Audit
TWU Local 571	September 17, 2015	Full Audit Text
TWU Local 541	April 30, 2015	Full Audit Text
TWU Local 241	February 25, 2015	Full Audit Text
TWU Local 226	April 20, 2012	Full Audit Text
TWU Local 556	July 19, 2011	Full Audit Text
TWU Local 507	August 19, 2009	Full Audit Text
TWU Local 700	September 24, 2008	Full Audit Text
TWU Local 525	July 1, 2008	Full Audit Text

Enemies of labor use this information

National Legal and Policy Center

"promoting ethics in public life"



ABOUT NLPC

CURRENT PROJECTS

WHAT'S HOT

Chicago Transport Workers Local President Guilty

Posted on [May 3, 2016](#) by Carl Horowitz

On March 24, [REDACTED] former president of Transport Workers Union Local 2014, pleaded guilty in U.S. District Court for the Northern District of Illinois to one count of making a false statement in a union financial statement. He had been charged in a superseding indictment this March after his original indictment in December 2013 for embezzling \$19,433 in funds from the Chicago union. The actions follow an investigation by the U.S. Labor Department's Office of Labor-Management Standards.

National Legal and Policy Center

"promoting ethics in public life"



ABOUT NLPC

CURRENT PROJECTS

WHAT'S HOT

Transport Workers Official in Florida Pleads No Contest

Posted on [September 21, 2016](#) by Carl Horowitz

On September 1, [REDACTED] former vice president of Transport Workers Union Local 296, pleaded no contest in the 17th Judicial Circuit Court of Florida to grand theft in the amount of \$5,500 from the Ft. Lauderdale union. He then was sentenced to 18 months of probation. Martinez, who had been charged on July 26, has paid full restitution. The actions follow a probe by the U.S. Labor Department's Office of Labor-Management Standards.

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DOL Investigations



UNITED STATES
DEPARTMENT OF LABOR

Engage Share

Office of Labor-Management Standards - OLMS

- OLMS LM REPORTS & CBAs
- COMPLIANCE ASSISTANCE RESOURCES
- LAWS & RELATED MATERIALS
- FINAL AGENCY DECISIONS & REPORTS
- ABOUT OLMS

[DOL HOME](#) [OLMS](#) [CRIMINAL AND CIVIL ENFORCEMENT ACTIONS](#)

Office of Labor-Management Standards Criminal and Civil Enforcement Actions

The Office of Labor-Management Standards (OLMS) conducts both civil Management Reporting and Disclosure Act (LMRDA) and related laws. embezzlements of union funds, union officer elections, the filing of required trusteeships over subordinate unions by a parent body. These investigations

Criminal Enforcement Actions

- Criminal Actions - [2019](#)
- Criminal Actions - [2018](#)
- Criminal Actions - [2017](#)
- Criminal Actions - [2016](#)

On March 26, 2019, in the United States District Court for the District of Massachusetts, Ivar Carlson, former Business Agent/Treasurer of International Alliance of Theatrical Stage Employees (IATSE) Local 935-B (located in Worcester, Mass.), pleaded guilty to embezzlement in the amount of \$37,014, in violation of 29 U.S.C. 501(c). The guilty plea follows an investigation by the OLMS Boston-Buffalo District Office.


On March 18, 2019, in the United States District Court for the Southern District of New York (SDNY), Vincent D'Acunto, former Secretary-Treasurer of United Food and Commercial Workers (UFCW) Local 2D (located in Brooklyn, N.Y.), pleaded guilty to racketeering conspiracy, in violation of 18 U.S.C. 1962. The guilty plea follows a joint investigation by the OLMS New York District Office, the U.S. Attorney's Office SDNY, the Federal Bureau of Investigation, the New York City Police Department, and the Department of Labor's Office of Inspector General.

On March 18, 2019, in the United States District Court for the Eastern District of Michigan, Norwood Jewell, former United Auto Workers (UAW) International Vice President in the UAW Chrysler Department and Director of the UAW-Chrysler National Training Center (NTC) from 2014 through 2016, was charged in an information with one count of conspiracy to violate the Labor Management Relations Act, in violation of 18 U.S.C. 371. Jewell knowingly joined a conspiracy whereby he received money and things of value from persons acting in the interest of FCA and/or approved UAW officials to use their NTC credit cards to make over \$40,000 in purchases for himself, senior UAW officials, and other UAW members, which were delivered through and concealed by the NTC, from 2014 through 2016. The charges follow an investigation by the OLMS Detroit-Milwaukee District Office, the Department of Labor's Office of Inspector General, the Federal Bureau of Investigation, and the Internal Revenue Service – Criminal Investigations.

On March 15, 2019, in the Marion County, Indiana Superior Court, Charlotte F. McDaniel, former Secretary-Treasurer of American Federation of State, County and Municipal Employees (AFSCME) Local 3826 (located in Indianapolis, Ind.), was indicted for three counts theft of union funds with a value between \$750 and \$50,000, in violation of Indiana Code 35-43-4-2. The indictment follows an investigation by the OLMS Cincinnati-Cleveland District Office.

DOL Compliance Audits

- DOL conducts compliance audits based on complaints from union members; failure to file annual financial reports on a timely basis; discrepancies in reports filed, random choice by the DOL.
- The compliance audit will usually cover the union's last fiscal year, although the audit may be expanded to other periods as appropriate.
- On average, it takes 15 days.



How to stay out of trouble

Is the expenditure. . .

- **Authorized?**
- **Disclosed?**
- **For a **valid** union purpose?**

Is there a record of authorization –
minutes of the Executive Board?

Is there proper record keeping –
documentation of the transaction
– voucher, check stub?

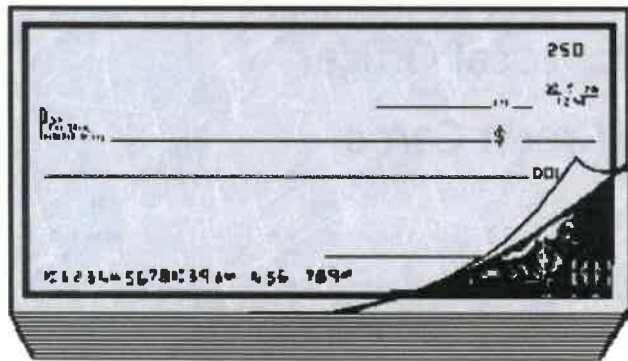
Authorization of expenditures

- Union money can only be spent with proper authorization
- Authorization should only be given for expenditures that serve a **legitimate Union Purpose.**



How to stay out of trouble

- Avoid conflict of interest or any appearance of it.
- Account for all expenses.
- Don't sell anything to the union or buy anything from the union.
- Receive nothing of value from an employer or a supplier.
- Beware of using a credit card; never buy anything personal on it.
- No rubber stamp signatures on checks.
- Never issue or take a cash advance – it is a loan and after 30 days must be reported on the LM form.



Writing checks

- Checks should **never** be written payable to **CASH**
- Checks should be written payable to **vendors** or **individuals**.
- All checks must be signed by **two (2) officers** of the Union..
- **Never pre-sign** checks or use a **rubber stamp** for check signing purposes.
- **Never use an ATM card.**

How to stay out of trouble

- Credit Cards should be in the name of the Individual Local Officer
- Monthly dollar amount limits should be placed on Credit Cards
- No ATM or debit capability should be allowed
- Credit Cards are to be used for Local business only. No personal charges by an officer.
- **Local must adopt a credit card policy**
- A Credit Card Statement should not be considered authorization for payment — You must provide receipts, hotel statements, or vouchers.

Reporting to members

- Remember: authorized, disclosed, for a **valid union purpose**.
- Documented.
- Report monthly.
- Get an annual audit from a CPA (“unqualified opinion”).



Reporting to your local membership

The Financial Officers have a responsibility to keep the membership informed of:

- All income received by the Local (dues and other Income)
- All expenditures and payments made on behalf of the Local
- All assets and accounts held on behalf of the Local
- The creating and reporting of budget items allocated by the Local.

Reporting to TWU

- Secretary Treasurer must fill out a monthly report sent to the International.
- The monthly report serves as a summary for the Local Executive Board to see how dues are spent to accomplish long-term goals.
- The form is filled out from the Cash Receipts and Disbursement Journals.

Reporting to the government

- Form 990: report on income and expenditures to the IRS
- Form 1099: non payroll payments exceeding \$599 annually for an officer, arbitrator, consultant or equipment paid to officer that becomes personal property of the officer. Reported to IRS.

Reporting to the government

- LM-1A: changes in constitution and by-laws
- LM-2, 3, or 4: annual report on income and expenditures, signed by President and FST

If your local employees work solely in the public sector, your local is not required to report to the Department of Labor.

Labor Department Reporting

The LMRDA requires Most Locals to file an “Annual Financial Report” with the U. S. Department of Labor.

If your Local has Gross Receipts of :

(And is Not a State or Municipal Local)

- More than \$250,000, you must file an LM-2 Report
- Less than \$250,000 and more then \$10,000 you must file an LM-3 Report
- Less than \$10,000, you must file an LM-4 Report

IRS Requirements

TWU Locals are exempt from Federal Income Taxes by the Internal Revenue Service (IRS) by being classified as a 501c (5) Organization. Generally Locals **are not exempt** from Sales Taxes.

- Locals must report all income to the Internal Revenue Service whether it is taxable or not. The exemption from tax does not extend to all types of Local income. Certain types of income are taxable and must be reported to the IRS on form 990T.
- Locals must pay employment taxes on salaries, lost time or annual leave reimbursements paid to their officers or members. The individual receiving these types of payments must report the income and pay personal taxes.

Sample LM-2 income statement

CASH RECEIPTS	AMOUNT
36. Dues and Agency Fees	\$170,275
39. Per Capita Tax	\$0
40. Interest	\$0
41. Dividends	\$0
42. Sale of Investments and Fixed Assets	\$0
48. Other Receipts	\$2,055
49. TOTAL RECEIPTS	\$172,330

Sample LM-2 expenditure statement

CASH DISBURSEMENTS		AMOUNT
50. Representational Activities		\$27,692
51. Political Activities and Lobbying		\$0
52. Contributions, Gifts, and Grants		\$9,750
53. General Overhead		\$65,294
54. Union Administration		\$28,691
60. Purchase of Investments and Fixed Assets		\$2,782
61. Loans Made		\$0
62. Repayment of Loans Obtained		\$0
65. Direct Taxes		\$2,592
67a. Total Withheld	\$6,328	\$1,980
67b. Less Total Disbursed	\$5,040	
67c. Total Withholding Not Disbursed		\$1,288
68. TOTAL DISBURSEMENTS		\$302,991

Sample LM-3 expenditure statement

CASH DISBURSEMENTS	AMOUNT
45. To Officers (line 24)	\$42,631
46. To Employees (less deductions)	\$167
47. Per Capita Tax	\$59,908
48. Office and Administration Expenses	\$60,470
49. Professional Fees	\$7,970
50. Benefits	\$0
51. Contributions, Gifts & Grants	\$0
52. Purchase of Investments & Fixed Assets	\$0
53. Loans Made	\$0
54. Other Disbursements	\$36,791
68. TOTAL DISBURSEMENTS	\$207,947

Sample IRS Form 990

Revenue	8	Contributions and grants (Part VIII, line 1h)		0
	9	Program service revenue (Part VIII, line 2g)	250,727	237,456
	10	Investment income (Part VIII, column (A), lines 3, 4, and 7d)	747	475
	11	Other revenue (Part VIII, column (A), lines 5, 6d, 8c, 9c, 10c, and 11e)	18,818	13,566
	12	Total revenue—add lines 8 through 11 (must equal Part VIII, column (A), line 12)	270,292	251,497
Expenses	13	Grants and similar amounts paid (Part IX, column (A), lines 1-3)		0
	14	Benefits paid to or for members (Part IX, column (A), line 4)	24,909	0
	15	Salaries, other compensation, employee benefits (Part IX, column (A), lines 5-10)	64,991	72,228
	16a	Professional fundraising fees (Part IX, column (A), line 11e)		0
	b	Total fundraising expenses (Part IX, column (D), line 25) <u>0</u>		
	17	Other expenses (Part IX, column (A), lines 11a-11d, 11f-24e)	173,781	233,779
	18	Total expenses Add lines 13-17 (must equal Part IX, column (A), line 25)	263,681	306,007
19	Revenue less expenses Subtract line 18 from line 12	6,611	-54,510	
Assets or Balances	20	Total assets (Part X, line 16)		
			Beginning of Current Year	End of Year
			303,090	248,535

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TWU Recommended Retentions

General Local Files:

- By-laws and Amendments -----Permanent
- Correspondence -----6 Years + current
- Election Records-----2 Years beyond the term of office
- Local Memorandums of
- Understanding-----Permanent
- Minutes of Meetings-----Permanent
- (Membership & E-Board)
- Items that Document the
 - Local's History -----Permanent

TWU Recommended Retentions

Local Membership Records

- Dues Deduction Forms 3 Years
- EEO Case Files Permanent
- Grievance Case Files Permanent
- Workers' Compensation Case Files Permanent

Financial Records

- Correspondence 5 Years
- IRS Forms- 7 Years
- LM Forms- 5 Years
- Financial Statements & Reports Permanent
- Officer Bonds Permanent

Many of these retentions are mandated by the Department of Labor and IRS



Questions
&
Discussion