



November 15, 2013

Ms. Marian Wagner, Treasurer
Electrical Workers, IBEW Local 2199
P.O. Box 401
West Seneca, NY 14224-0401

Case Number: 110-1209294 [REDACTED]
LM Number: 064675

Dear Ms. Wagner:

This office has recently completed an audit of Electrical Workers, IBEW Local 2199 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 President Debbie Thur, Financial Secretary Peggy Overturf, and you on November 6, 2013, 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 2199's 2012 records revealed the following recordkeeping violations:

1. General Disbursements and Reimbursed Expenses

Local 2199 did not retain adequate documentation for reimbursed expenses incurred by union officers and employees and other general disbursements totaling at least \$2,240. For

example, insufficient documentation was retained for payments made to the Harvey Morin Post VFW for beverages at the monthly membership meetings.

As 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. Meal Expenses

Local 2199 did not submit itemized receipts for meal expenses totaling at least \$148. The union must maintain itemized receipts provided by restaurants to officers and employees. These itemized receipts are necessary to determine if such disbursements are for union business purposes and to sufficiently fulfill the recordkeeping requirement of LMRDA Section 206.

The audit found however that Local 2199 records of meal expenses did properly included written explanations of union business conducted and the names and titles of the persons incurring the restaurant charges as required to be maintained.

3. Reimbursed Auto Expenses

Union officers who received reimbursement for business use of their personal vehicles did not retain adequate documentation to support payments to them totaling at least \$5,000 during 2012. The union must maintain records which identify the dates of travel, locations traveled to and from, and number of miles driven. The record must also show the union business purpose of each use of a personal vehicle for business travel by an officer or employee who was reimbursed for mileage expenses.

4. Lost Wages

Local 2199 did not retain adequate documentation for payments made to the employer, National Fuel, for wages paid to union officers while conducting union business during regular working hours. The union must maintain records in support of lost wages paid 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 2199 retained employer invoices documenting the week and number of hours in total which were paid initially on behalf of the union, as well as the gross wages associated with each officer for those hours, however the officers did not identify the union business conducted on such days.

During the exit interview, I explained how Local 2199 may satisfy this requirement in their records and identified the type of information and documentation that the local must

maintain for lost wages and other officer expenses. Compliance assistance materials were also provided for your reference.

Based on your assurance that Local 2199 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 Local 2199 for the fiscal year ended December 31, 2012, was deficient in the following areas:

1. Disbursements to Officers for Lost Wages (LM-3)

Local 2199 did not include wages paid to union officers indirectly through an employer arrangement totaling at least \$29,310 in Item 24 (All Officers and Disbursements to Officers). The local union appears to have reported this amount in Item 50 (Benefits).

The local failed to report the gross wage reimbursements paid to the employer for wages paid to union officers while conducting union business during regular working hours. Local 2199 should report the lost wages initially paid by the employer and later reimbursed by the union in Item 24, Column D (Gross Salary), next to the officers' names who received these wages. An explanation of these gross wages should be included in Item 56 (Additional Information). Payments to the employer for payroll taxes associated with this arrangement should be reported in Item 54 (Other Disbursements).

The union must also report most direct disbursements to Local 2199 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. Professional Fees

The union improperly reported the amount paid in professional fees in Item 49 (Professional Fees). Local 2199 reported \$6,450 in professional fees during the period. The OLMS audit found that only \$5,700 was disbursed for outside legal and other professional services during the year.

3. Benefit Disbursements

The union incorrectly reported \$44,875 in benefit payments on the form in Item 50 (Benefits). It appears the union erroneously reported wage reimbursements made to the employer for union officer wages incurred during regular business hours to conduct union business. Item 50 should include direct & indirect benefit disbursements, such as to a group life insurance, made payable to officers, employees, members, and beneficiaries, or to a separate and independent entity, such as a trust or insurance company. The OLMS audit found that the union pays death benefits of \$50 each and these disbursements should be reported in Item 50.

4. Contributions, Gifts, and Grants Disbursements

Local 2199 failed to report the correct total of disbursements for contributions, donations and gifts made by the organization in Item 51 (Contributions, Gifts & Grants). During the period, the union made at least \$4,800 in retirement gifts and other donations, however only \$4,150 was reported in Item 51. It appears the union erroneously reported some of these payments elsewhere on the form.

5. Purchase of Fixed Assets

During the period, the union purchased a laptop computer for the union and associated accessories totaling \$1,396. It appears this payment was reported in Item 46 (Office & Administrative Expenses). Rather, this purchase should have been reported in Item 52 (Purchase of Investments and Fixed Assets) and corresponding entries made to Item 29 (Fixed Assets), as applicable.

6. 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 2199 amended its constitution and bylaws in 2012, but did not file a copy with its LM report for that year.

Local 2199 has now filed a copy of its constitution and bylaws.

I am not requiring that Local 2199 file an amended LM report for 2012 to correct the deficient items, but Local 2199 has agreed to properly report the deficient items on all future reports it files with OLMS.

I want to extend my personal appreciation to Electrical Workers, IBEW Local 2199 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: Ms. Debbie Thur, President
Ms. Peggy Overturf, Financial Secretary
Mr. Mark K. Ellmann, CPA