



April 30, 2014

Mr. Arturo Tapia, President
International Chemical Workers Union Council, UFCW
Local 763-C

Case Number: 310-3123578
LM Number: 062-762

Dear Mr. Tapia:

This office has recently completed an audit of International Chemical Workers Union Council (ICWUC), UFCW, Local 763-C 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 you, Treasurer John Wilsterman, and ICWUC International Representative Lynn Knaak on March 26, 2014, 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 763-C's fiscal year ending June 30, 2012 records revealed the following recordkeeping violations:

1. Lack of Income Supporting Documentation

Local 763-C failed to retain eighteen dues check-off reports totaling \$11,214.00 from the following employers: Forbo - seven reports totaling \$3,528.00; PQ Corporation - six reports

totaling \$7,056.00; and Olin Chemical - five reports totaling \$630.00. If retained, the check-off reports would have identified the members who had dues remitted to the union on their behalf.

In addition, Local 763-C failed to adequately record the purpose of twelve restitution checks totaling approximately \$4,298.00 that were received from the United States Treasury between March 2012 and June 2012. The checks were erroneously recorded on the ICWUC Form 42 (i.e. receipts/disbursements journal) as "savings misc" or "dues income."

As noted above, the labor organization must retain at least one record that shows the date, amount, purpose, and source of all money received.

2. Receipt Dates not Recorded/Disbursement Dates not Recorded

Entries in Local 763-C's ICWUC Form 42 reflect the date the union deposited money, but not the date money was received. Union receipts records must show the date of receipt. In addition, entries in Local 763-C's Form 42 reflect the date checks cleared the union bank account instead of the date the check was written/issued. For example, five checks totaling \$1,197.00 were written in June 2012 but were recorded as July 2012 disbursements when the checks cleared the union's bank. The date of receipt or disbursement is required to verify, explain, or clarify amounts required to be reported in Statement B (Receipts and Disbursements) of the LM-3. The LM-3 instructions for Statement B state that receipts must be recorded when money is actually received by the labor organization and disbursements must be recorded when money is actually paid out. Failure to record the date money was received could result in the union reporting some receipts/disbursements for a different year than when it was actually received or disbursed.

3. Lost Wages

Local 763-C did not retain adequate documentation for lost wage reimbursement payments to union officers on a minimum of eight occasions, totaling approximately \$3,208.00. The union must maintain records in support of lost wage claims 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 763-C recorded the union business conducted on the memo section of a check or on the check stub, but did not identify the date lost wages were incurred or the number of hours lost on each date. On occasion, the applicable rate of pay that was being reimbursed was not recorded in union records.

During the exit interview, the union was provided a compliance tip sheet, Union Lost Time Payments, that contained a sample of an expense voucher Local 763-C may use to satisfy this requirement. The sample identifies the type of information and documentation that the local must maintain for lost wages and other officer expenses.

4. Lack of Expense Supporting Documentation

Local 763-C failed to retain adequate supporting documentation for at least four disbursements made by check totaling at least \$3,165.63. For example, no invoice was retained for a

\$1,754.42 payment to an arbitrator and no invoice was retained for a \$1,147.45 per capita tax payment to the ICWUC.

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.

5. Meal Expenses

Local 763-C records of meal expenses did not always include the names and titles of the persons incurring the restaurant charges. For example, a union officer was reimbursed for three meals totaling approximately \$100.00, but the full names and titles of the persons incurring the charges were not documented in the union records. Union records of meal expenses must include written explanations of the union business conducted and the full names and titles of all persons who incurred the restaurant charges. Also, the records retained must identify the names of the restaurants where the officers or employees incurred meal expenses.

6. Lack of Salary Authorization

Local 763-C did not maintain records to verify that the salaries reported in Item 24 (All Officer and Disbursements to Officers) of the LM-3 was the authorized amount and therefore was correctly reported. Article VII, Section H, of Local 763-C's Bylaws requires compensation and expenses for officers to be recommended by the Local Union Executive Board and approved by the membership of the union. However, Local 763-C did not maintain any meeting minutes during the audit period and was unable to locate any additional minutes that authorized the current salaries of union officers. The union must keep a record, such as meeting minutes, to show the current salary authorized by the entity or individual in the union with the authority to establish salaries.

7. Lack of Expense Supporting Documentation/Asset Inventory List – Outside the Audit Period

At the onset of the audit, Local 763-C officers provided OLMS with a file folder that contained copies of twenty-four (24) cancelled union checks totaling \$13,153.45 and sporadic supporting documentation for these disbursements. The disbursements occurred between April 1, 2008 and October 26, 2012. The Local 763-C officers expressed concern about the union purpose of the disbursements to former union officers and third parties (including a hotel, restaurant, print shop, and limousine rental company) due to the lack of supporting documentation. A review of the records provided revealed that Local 763-C failed to maintain a \$2,136.96 hotel invoice that appears to pertain to a UFCW/ICWUC Convention held in 2010. Also of note, Local 763-C failed to maintain a transaction receipt/invoice for a \$1,600.00 airfare reimbursement to a union officer that appeared to pertain to the 2010 UFCW/ICWUC Convention. Local 763-C also failed to maintain a transaction receipt/invoice for a \$524.40 airfare reimbursement to a union officer that appeared to pertain to an ICWUC Region 3 & 4 Conference held in 2009. Further, a former union officer was reimbursed \$1,364.75 in 2010 for purchasing a computer, but no transaction receipt/invoice was retained.

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. In addition, labor organizations must maintain a record, such as an asset inventory list, that contains a description of its assets and the dates assets are purchased, sold, donated, or thrown away.

Based on your assurance that Local 763-C 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 LM-3 filed by Local 763-C for the fiscal year ended June 30, 2012, was deficient in the following areas:

1. Receipt Items

Item 44 (total receipts) was reported on the Form LM-3 as \$20,085.00 even though the union received approximately \$24,714.10 in total receipts during the audit period. The following discrepancies were noted:

- Item 38 (dues) was reported as \$19,532.00; however, it appears the union received \$20,412.00 in dues receipts.
- Item 41 (interest & dividends) was reported as \$300.00; however, it appears the union only received \$4.00 in savings account interest during the audit period.
- Item 43 (other receipts) was reported as \$253.00; however, it appears the union received \$4,298.00 in restitution payments from a former union treasurer that would be properly categorized in Item 43. The United States Treasury forwarded the restitution payments to the union on behalf of the former union treasurer.

2. Disbursement Items

Item 55 (total disbursements) was reported on the Form LM-3 as \$28,530.00 even though the union disbursed approximately \$30,243.00 during the audit period. The following discrepancies were noted:

- Item 45 (to officers) was reported as \$7,699.00, but it appears disbursements to officers should have been reported as \$8,755.00.
- Item 47 (per capita tax) was reported as \$16,259.00, but it appears Local 763-C disbursed \$14,770.00 in per capita taxes during the audit period.
- Item 48 (office and administrative expenses) was reported as \$4,322.00, but it

appears office and administrative expenses should have been reported as \$1,786.00.

- Item 49 (professional fees) was reported as \$0.00, but it appears that Local 763-C disbursed \$4,303.00 for arbitration and accounting related professional fees.
- Item 51 (contributions, gifts and grants) was reported as \$0.00, but it appears that the union gave a gift of \$100.00 to a retiring member.
- Item 54 (other disbursements) was reported as \$150.00 even though the union had \$529.00 in disbursements that should have been categorized in Item 54. A majority of the union's other disbursements resulted from bank account maintenance fees.

3. Cash Reconciliation

It appears that the cash figures reported in Item 25 (Cash) are not the correct figures according to Local 763-C's books after reconciliation to the bank statements. The instructions for Item 25 state that the union should obtain account balances from its books as reconciled to the balances shown on bank statements.

4. Undeposited Check

Local 763-C failed to deposit or cash one PQ Corporation dues check-off check that appeared to have been issued to the union in December 2011 and received during the audit year. PQ Corporation voided the check in approximately June 2012 due to the union's failure to deposit or cash the check. The \$1,134.00 check should have been reported in Item 30(b) (other assets – end of reporting period) as an accounts receivable. The \$1,134.00 in accounts receivable needs to be reported on all future LM-3 reports filed with this agency until a replacement check is received and deposited by the union.

5. 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 763-C amended its constitution and bylaws in 2004, but did not file a copy with its LM report for that year.

Local 763-C has now filed a copy of its constitution and bylaws.

Local 763-C must file an amended Form LM-3 for the fiscal year ended June 30, 2012, to correct the deficient items discussed above. Local 763-C is encouraged to complete, sign, and file its report electronically using the Electronic Forms System (EFS) available at the OLMS website at www.olms.dol.gov. Reporting forms and instructions can be downloaded from the website, if you prefer not to file electronically. The amended Form LM-3 should be filed electronically no later than May 21, 2014 or submitted to this office at the above address by the same date. Before filing, review the report thoroughly to be sure it is complete and accurate. Paper reports must be signed with original signatures.

Other Issues

1. Meeting Minutes

The audit revealed that no Executive Board or membership meeting minutes were maintained during the audit period because the union could never meet its quorum requirements for holding Executive Board and membership meetings. In these situations, a union record should be maintained that details the meeting date, location, names of union members/officers that were present, and that the union failed to meet its quorum requirement.

2. Bonding

During the audit, Local 763-C was able to produce a copy of their labor bond that was in effect for the period January 1, 2013 through January 1, 2014. Ms. Knaak confirmed that Local 763-C has consistently held bonding coverage through the ICWUC, but neither she nor Local 763-C officers have received a copy of the most current labor bond. Ms. Knaak promised to work with the ICWUC in obtaining this record for Local 763-C and will forward a copy to OLMS upon receipt.

I want to extend my personal appreciation to International Chemical Workers Union Council, UFCW, Local 763-C 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: Mr. John Wilsterman, Local 763-C Treasurer
Ms. Lynn Knaak, ICWUC International Representative