

**U.S. Department of Labor**

Office of Labor-Management Standards  
Cincinnati-Cleveland District Office  
36 East Seventh Street, Suite 2550  
Cincinnati, OH 45202  
(513) 684-6840 Fax: (513) 684-6845



February 10, 2023

Mr. Kevin Frazier, President  
ATU Local 1385  
6051 North Dixie Drive  
Dayton, OH 45414

Case Number: 350-6025343( )  
LM Number: 047278

Dear Mr. Frazier:

This office has recently completed an audit of ATU Local 1385 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 Financial Secretary-Treasurer Tanika Thompson, Recording Secretary Kelly Moon, Vice President [REDACTED], and [REDACTED] on December 21, 2022 and the subsequent meeting on February 8, 2023, 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 1385's 2021 and 2022 records revealed the following recordkeeping violations:

1. General Expenses and General Reimbursements

Local 1385 did not retain adequate documentation for reimbursed expenses incurred by you totaling at least \$2,880.00. On March 14 and March 31, 2022, you received four gross disbursements totaling \$2,880.00 to true-up the vacation owed for only receiving 40 hours of pay although your salary was supposed to be based on 52 hours per week. The vouchers submitted for the true-up did not include pay stubs indicating the hours cashed in and the rate paid by the employer. Two of the disbursements were made to make you whole for the five weeks of vacation you earned in 2021 or five weeks at twelve hours per week for a total of 60 hours. However, during 2021, you used 96 hours of vacation and received your full 52 hours of pay at the appropriate rate. I also note that when you sold vacation and essential worker paid time, you only received pay from the employer for 40 hours and received a lower hourly wage rate of \$28.08. Based on the number of vacation hours and essential worker paid time you cashed-in in 2021 and 2022, I determined you received a gross overpayment of \$431.01. The international vice president explained he advised the local to true-up vacation for you, but was unaware the employer paid your full salary for vacation time used. OLMS recommends that you reimburse the local for the \$431.01 overpayment. During the exit interview, I discussed the documentation which should be included with any future true-up calculations including the pay stub for any cashed-in leave and the calculation of the true-up.

On July 21, 2022, and on September 14, 2022, you received duplicate reimbursements of \$469.95 for air fare to attend the ATU Convention in Las Vegas, Nevada. During the exit interview on December 21, 2022, you reviewed the vouchers and receipts and admitted the duplicate reimbursement on September 14, 2022 was an error. On January 27, 2023, you deposited \$469.95 in the local's checking account.

The audit also identified general disbursements totaling at least \$1,296.43 for which no receipts or invoices were retained by the local. For example, on April 12, 2021 and September 9, 2021, the local disbursed a total of \$1,296.43 to Intuit, but did not retain invoices in the union records.

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

During the audit year and through March 16, 2022, Local 1385 did not require officers and employees to submit itemized receipts for meal expenses totaling at least \$501.74. 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.

Local 1385 records of meal expenses did not always include written explanations of union business conducted or the names and titles of the persons incurring the restaurant charges. For example, on February 23, 2022, you received a reimbursement of \$54.15 for meal charges at George's Family Restaurant. Although the receipt and/or voucher advised the lunch was for the negotiation team, neither the receipt nor the voucher identified the participants. Further, on March 3, 2022, Vice President Gregory Sibley received a reimbursement of \$50.83 for meal charges at the Submarine House. Similarly, the receipt noted the meal was for the negotiating team, but did not identify the participants. 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.

### 3. Lost Wages

Local 1385 did not retain adequate documentation for lost wage reimbursement payments to Sibley and Executive Board Member Matthew Trimble totaling at least \$1,364.65 and \$721.63, respectively in that the lost time vouchers did not disclose the union purposes for their lost time claims. 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 although lost time vouchers were submitted which provided the hours missed and the claimant's hourly wage, many vouchers for Sibley and Trimble did not identify the union business conducted.

Further, I identified a lost time claim submitted by Trimble for four hours on October 29, 2021 totaling \$118.52. However, Trimble was not excused from the employer for union activity. I also note that Trimble was excused for union activity for one hour on November 3, 2021, but did not submit a lost time claim. The overpayment to him is \$88.89.

During the exit interview, I provided a compliance tip sheet, *Union Lost Time Payments*, that contained a sample of an expense voucher Local 1385 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. Receipt Dates not Recorded

Entries in Local 1385's QuickBooks 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 1385 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-2 filed by Local 1385 for the fiscal year ended December 31, 2021, was deficient in the following areas:

#### 1. Disbursements to Officers and Employees

##### Presidents' Salaries

Local 1385 did not include salary payments to you and former President [REDACTED] totaling at least \$67,158.26 and \$5,664.32, respectively in Schedule 11 (All Officers and Disbursements to Officers). It appears that the local erroneously reported these payments in Schedules 15.

##### Cell Phone Allowances

Local 1385 failed to report cell phone allowances paid to you, Thompson, and [REDACTED] of \$275.00, \$1,175.00, and \$900.00 in Schedule 11, Column E (Allowances Disbursed). It appears the local erroneously reported the allowances for you and Thompson in Column F (Disbursements for Official Business).

##### Lost Time Paid to Members

Lost time payments totaling at least \$585.27 to members [REDACTED], [REDACTED], [REDACTED], and [REDACTED] were not reported in Schedule 12, Column (D) (Gross Salary Disbursements, but were erroneously reported in Schedule 18 (General Overhead). Disbursements to individuals other than officers who receive lost time payments even if the labor organization does not otherwise consider them to be employees or does not make any other direct or indirect payments to them should be reported in Schedule 12.

##### Disbursements

Local 1385 failed to report disbursements to you, Thompson, Trimble, Moon, and Executive Board Member Karen Gilley in Schedule 11. The union must report in Column F of Schedules 11 and 12 (Disbursements for Official Business) direct disbursements to officers and employees for reimbursement of expenses they incurred while conducting union business. In addition, the union must report in Column F of Schedules 11 and 12 indirect disbursements made to another party (such as a credit card company) for business expenses union personnel incur. However, the union must report in Schedules 15 through 19 indirect disbursements for business expenses union personnel incur for transportation by public carrier (such as an airline) and for temporary lodging expenses while traveling on

union business. The union must report in Column G (Other Disbursements) of Schedules 11 and 12 any direct or indirect disbursements to union personnel for expenses not necessary for conducting union business. As a result, Local 1385 should have reported the following amounts in Column F for the following officers:

<b>Officer</b>	<b>Amount</b>
President Kevin Frazier	\$1,012.50
Financial Secretary-Treasurer Tanika Thompson	\$1,149.80
Recording Secretary Kelly Moon	\$141.09
Executive Board Member Matthew Trimble	\$147.43
Executive Board Member Karen Gilley	\$233.08

## 2. 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 1385 amended its constitution and bylaws in 2018, but did not file a copy with its LM report for that year.

As agreed, Local 1385 will file a copy of its current constitution and bylaws with OLMS as soon as possible but not later than February 28, 2023.

Local 1385 must file an amended Form LM-2 for the fiscal year ended December 31, 2021, to correct the deficient items discussed above. The report must be filed electronically using the Electronic Forms System (EFS) available at the OLMS website at [www.olms.dol.gov](http://www.olms.dol.gov). The amended Form LM-2 must be filed no later than February 28, 2023. Before filing, review the report thoroughly to be sure it is complete and accurate.

## Other Issues

### 1. Dual Signatures on Checks

During the audit, you and Thompson advised that it is Local 1385's practice for the both of you to sign all union checks. Further, Article 22 of Local 1385's bylaws requires that checks be signed by the president and financial secretary-treasurer. During the audit year, I identified check numbers [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], and [REDACTED] signed only by Thompson. 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.

I want to extend my personal appreciation to ATU Local 1385 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,

[REDACTED]

Investigator

cc: Ms. Tanika Thompson, Financial Secretary-Treasurer