



January 12, 2023

Brandon Guthier, President
Office and Professional Employees Local 98
3118 Colerain Avenue
Cincinnati, OH 45225

Case Number: 350-6025224()
LM Number: 062056

Dear Mr. Guthier:

This office has recently completed an audit of Office and Professional Employees Local 98 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, Secretary Treasurer / Business Agent Greg Warren, and Trustee Patti Luken on January 12, 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 98's 2021 records revealed the following recordkeeping violations:

1. Receipt Dates Inaccurately Recorded

Some entries in Local 98's receipts journal reflect the date the union deposited money, but not the date money was received. In some instances, the receipts journal reflected a date

that was neither the received nor deposit date but was instead an unknown date. 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-3. The LM-3 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.

2. Receipt Documentation

One receipt voucher contains the incorrect dollar amount for a dues payment made by the International Harvester Credit Union. The voucher states the amount received was \$1,456.71, but the check stub and Excel workbook record the amount as \$1,393.71. This is a difference of \$63.

3. Disbursement Documentation & Lack of Authorization

Local 98 did not retain adequate documentation for disbursement checks in at least 24 instances. For example, there were 12 monthly payroll deduction disbursements to DECA Credit Union and 12 monthly pension contributions that failed to properly explain the purpose for the disbursements and/or provide proof of where the money went, such as a confirmation receipt. The only retained documentation for the disbursements were copies of the checks and a union created invoice/voucher, but the invoice/voucher failed to explain their purpose. The payroll deduction is one check that gets split deposited into two officer bank accounts, so the deposit slips supporting the split deposit should be maintained or an explanation of the split must be notated in the bottom left corner of the check. Moreover, the union must keep a record, such as meeting minutes, to show the current pension contributions, allowances, and refunds authorized by the entity or individual in the union with the authority to establish the disbursements.

4. Meal and Other Credit Card Expenses

Local 98 did not require officers and employees to submit itemized receipts for three meal expenses and one gas expense. The union must maintain itemized receipts for credit card expenses incurred by 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 98's 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, there were five meal expenses on either Brandon Guthier or Greg Warren's credit card that did not have the names of those in attendance for the meal and/or the purpose for the meal. 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.

5. Information Not Recorded in Meeting Minutes

During the audit, Mr. Guthier advised OLMS that the executive board must authorize all transactions over \$1,500, but this policy is not in writing. However, the meeting minutes do not contain any reference to two insurance expenses, one lawyer fee, one arbitration/negotiation expense, and five pension expenses each over \$1,500 and totaling \$19,888.50. Also, Local 98 maintained no meeting minutes or explanation for canceled meetings for all four required membership meetings and did not hold monthly executive board meetings as required by the bylaws. Only four executive board meetings were held during the year. Minutes of all membership or executive board meetings must report any disbursement authorizations made at those meetings.

Based on your assurance that Local 98 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 98 for the fiscal year ended December 31, 2021, was deficient in the following areas:

1. Disbursements to Officers

Local 98 did not include some reimbursements to officers totaling at least \$3,212 in the amounts reported Item 24 (All Officers and Disbursements to Officers). It appears the union erroneously reported these payments in another line item.

Local 98 did not report the names of some officers and the total amounts of payments to them or on their behalf in Item 24 (All Officers and Disbursements to Officers). The union must report in Item 24 all persons who held office during the year, regardless of whether they received any payments from the union.

The union must report most direct disbursements to Local 98 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. Savings Account Reported as Investment

Local 98 improperly included the value of their savings account as an investment in Statement A (Assets and Liabilities). For LM reporting purposes, OLMS considers the savings account balance to be cash and to be reported in Statement A, Item 25 on the LM-3 report.

3. 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 98 amended its constitution and bylaws but did not file a copy with its LM report for that year.

As agreed, Local 98 will file a copy of its current constitution and bylaws with OLMS as soon as possible but not later than January 26, 2023.

I am not requiring that Local 98 file an amended LM report for 2021 to correct the deficient items, but Local 98 has agreed to properly report the deficient items on all future reports it files with OLMS.

Other Issues

1. Signatures

During the audit, Local 98 advised that it is their policy and practice for only one officer, President Brandon Guthier, to sign all checks. OLMS suggests a two-signature policy on all disbursement checks. It is an effective internal control of unions funds, and it attests to the authenticity of a completed document already signed. I found one disbursement check made to Duke Energy for a utility bill totaling \$510.13 on 3/29/2021 that is missing the authorization signature by Brandon Guthier, Greg Warren, or Patti Luken.

2. Pension Benefits

Local 98 does not have a written policy authorizing the weekly pension benefit for President Brandon Guthier and Treasurer Greg Warren for \$249.03 and \$84.23, respectively. In 2017, it was documented in Local 98's meeting minutes that Guthier would

receive \$38.46 a week to be put into the John Hancock Pension Plan, which does not align with the current dollar amount or give authorization for Warren.

3. Expense Policy

As I discussed during the exit interview with you, the audit revealed that Local 98 does not have a clear policy regarding the types of expenses personnel may claim for reimbursement, the types of expenses that may be charged to union credit cards, or a general expense policy to support the claim that all transactions under \$1,500 do not need to be approved by the executive board. OLMS recommends that unions adopt written guidelines concerning such matters.

4. Lost Time Policy

As I discussed during the exit interview with you, the audit revealed that Local 98 does not have a lost time policy. OLMS recommends that unions adopt written guidelines concerning such matters.

5. Allowance Policy

As I discussed during the exit interview with you, the audit revealed that Local 98 does not have a policy authorizing the \$50 monthly cell phone allowance to Brandon Guthier and Greg Warren, the \$15 monthly expense allowance to trustees, or the \$54 monthly dues reimbursement to trustees and/or stewards. OLMS recommends that unions adopt written guidelines concerning such matters. Furthermore, the small salary to the trustees conflicts with your bylaws.

I want to extend my personal appreciation to the Office and Professional Employees Local 98 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: Greg Warren, Secretary Treasurer/ Business Agent
Patti Luken, Trustee