



September 5, 2023

Mr. Michael Merrell, Secretary-Treasurer
UFCW Local 700
3091 E. 98th Street
Indianapolis, IN 46280

Case Number: 350-6025398()
LM Number: 529093

Dear Mr. Merrell:

This office has recently completed an audit of UFCW Local 700 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, President Tracy Bartak, and Jonathan D. Karmel of The Karmel Law Firm on June 28, 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 700's 2022 records revealed the following recordkeeping violations:

1. General Reimbursed and Credit Card Expenses

Local 700 did not retain adequate documentation for reimbursed expenses and credit card expenses incurred by you and former President Joseph Chorpenning totaling at least

\$2,106.52. For example, Chorpenning did provide receipts for nine car washes charged to the union credit card totaling \$429.92 and \$820.00 for the purchase of insurance for the golf outing for which only a PayPal invoice was retained. Although I note the local receives a monthly report from Wex Bank with regard to the gas card transactions, the local did not require users of the Wex Bank credit cards to obtain and submit receipts to the local for fuel purchases and maintenance charges of at least \$53,443.05.

Further, on May 5 and May 26, 2022, checks number [REDACTED] in the amount of \$225.00 and check number [REDACTED] in the amount of \$280.00 were drawn on the leukemia fund checking account. The checks were payable to Local 700 and Bookkeeper Andrea Green, respectively. The purpose of the disbursements was to provide seed money for the local's golf outing in June 2022, but the local did not retain any receipts regarding the disposition of the funds.

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. Union Owned Vehicles

The union did not maintain records necessary to verify the accuracy of the information reported in Schedules 11 (All Officers and Disbursements to Officers) and 12 (Disbursements to Employees) of the LM-2.

Local 700 incurred expenses totaling at least \$53,443.05 on the Wex Bank credit cards for automobiles and at least \$2,998.87 on the local's credit cards during 2022. However, Local 700 did not maintain records documenting business versus personal use of the union vehicles. Rather, officers and employees submit their total mileage in November of each year and the total number of miles for business. However, the local does not require daily mileage logs nor does the local obtain mileage logs from the officers and employees issued union automobiles. A calculation of the personal miles by OLMS revealed officers and employees reported personal mileage for 20, 30, or 33 percent.

The LM-2 instructions include specific rules for the reporting of automobile expenses. The union must report operating and maintenance costs for each of its owned or leased vehicles in Schedules 11 and 12 of the LM-2, allocated to the officer or employee to whom each vehicle is assigned.

For each trip they take using a union owned or leased vehicle, officers and employees must maintain mileage logs that show the date, number of miles driven, whether the trip was business or personal, and, if business, the purpose of the trip.

3. Failure to Record Receipts

Local 700 did not record in its receipts records donations to the leukemia fund of at least \$53,434.00. For example, on May 5, 2022, the local deposited \$20,870.00 in donations and golf outing sponsorships, but did not record the date of receipt, amount received, and the source. Rather, the local maintained the check stub or copy of the check and entered the deposit in QuickBooks. Union receipts records must include an adequate identification of all money the union receives. The records should show the date and amount received, and the source of the money.

4. Receipt Dates not Recorded

Entries in Local 700's QuickBooks, duplicate receipts, and except spreadsheet for the general fund reflect the check date and the date the union deposited money, but not the date money was received. Further, donations received during the year for the leukemia funded are recorded in QuickBooks upon deposit. Although copies of the check stubs are retained in the union records, the local does not record the date of receipts. Throughout the year, the local purchases sporting event tickets and sells the tickets to members at a discounted price. Although the local records the payment by the member, the local does not record the receipt date. 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.

5. Lack of Salary Authorization

Local 700 did not maintain records to verify that the salaries reported in Schedules 11 (All Officers and Disbursements to Officers) and 12 (Disbursements to Employees) of the LM-2 were the authorized amount and therefore correctly reported. 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.

The local's regular full and part time employees, excluding the president, secretary-treasurer, executive board members, and executive staff, are covered by the agreement between the local and the Federation of Agents and International Representatives (FAIR). Review of the compensation received by you, Bartak after his appointment as president, Bookkeeper Julie Shay, Bookkeeper Andrea Green, and former President Joseph Chorpenning revealed all of you received semi-annual bonuses of one week of pay. However, there was no record authorizing the bonuses. Rather, the local has relied on a resolution approved by the executive board on June 27, 2007, which provides the president, secretary treasurer, and executive staff shall receive a bonus of one percent in 2007 and 2008, wage increases of two percent in 2008 and 2009, and a holiday bonus of one week of pay. The resolution has been interpreted to continue to apply the wage increases, bonuses,

and leave provisions found in successor FAIR contracts to the non-covered officers and employees. I note the FAIR contract for fiscal year ended December 31, 2022, authorized semi-annual bonuses of one week of pay to the covered employees.

Further, Shay and Green receive quarterly bonuses of \$5,000. Although the local provided documentation of the payment of the quarterly bonus from July 2017 to present, the motion authorizing an increase of their salaries by \$10,000 per year on June 21, 2017 was the only authorization located which addressed their compensation.

Article VII, Section C.5 provided the president shall determine the compensation for all personnel employed by the local, subject to the approval of the executive board. Although based on historic practice and interpretation of the June 27, 2007 resolution, and your confirmation, the salaries and bonuses are authorized, the authorization of the compensation paid to the officers and staff should be documented.

6. Lack of Authorization for Purchases of Union Vehicles

Pursuant to the executive board resolution dated June 27, 2007, equipment purchases in excess of \$10,000.00 require executive board approval. The local bylaws provide in Article VII, Section C.2, the president shall disburse funds ratified by the executive board, except for disbursements required by the UFCW International constitution and local bylaws. Article IX, Section B proscribes that the trustees of the local shall be responsible that the funds and property of the local union are managed for the sole use and benefit of the local.

The local does not have a written policy governing the purchase and sale of vehicles. For the past twelve years, you have been responsible for the purchases and sales of union vehicles. On or about April 14, 2022, Chorpenning informed you that he was purchasing the 2022 Yukon Denali with a sales price of \$81,114.00, less a trade allowance of \$51,000.00 on the 2020 Lincoln Aviator with 20,125 miles. On or about April 25, 2022, you executed the loan agreement for the purchase. As a result, the outstanding balance of the 2022 Lincoln Aviator loan was included in the 2022 Yukon Denali loan of \$57,063.00. On August 9, 2023, four months after the purchase of the vehicle, Chorpenning told you he was going to retire and he subsequently retired on August 27, 2022. Although the local intended to repay the vehicle loan by October 2022, the local was unable to do so because of a substantial shortfall in the remittance of dues from an employer. On or about April 17, 2023 the local repaid the balance of the loan and on May 25, 2023, the vehicle was transferred to Chorpenning, as was previously authorized pursuant to the June 27, 2007 resolution. The local purchased nine other vehicles during 2022. Approvals for the purchases were not located in the executive board meeting minutes.

Based on the local's bylaws and the resolution adopted June 27, 2007, Local 700 must keep a record, such as meeting minutes, documenting the authorization for the purchase of assets in excess of \$10,000.00.

Based on your assurance that Local 700 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 700 for the fiscal year ended December 31, 2022, was deficient in the following areas:

1. Failure to Report the Disposition of the 2022 Yukon Denali and Vehicles Traded-In

Pursuant to the resolution adopted by the executive board on June 27, 2007, the president, secretary-treasurer, and executive staff are entitled to receive their assigned automobile if they had ten years of service with the local and/or UFCW International. On or about August 27, 2022, Chorpenning retired from the local. The local allowed Chorpenning to retain custody of the vehicle but was unable to gift the 2022 Yukon Denali to Chorpenning because the outstanding balance of the vehicle loan was approximately \$53,630.22. Although the vehicle was not formally transferred until the local repaid the loan on April 17, 2023, Chorpenning continued to drive the vehicle while the local continued to insure the vehicle and repay the loan throughout the end of the fiscal year and until the vehicle was officially transferred to Chorpenning on or about May 25, 2023. The local should have answered affirmatively to Item 15 (Acquisition or Disposition of Assets) in that the vehicle was given to Chorpenning to drive during fiscal year ended December 31, 2022 with the knowledge that upon retirement of the vehicle loan, the vehicle would be formally transferred to him. As a result, additional information including the manner in which the vehicle was given away, identification of the vehicle and its value, and cost basis of the vehicle should have been reported in Item 69 (Additional Information). Further, the formal transfer of the vehicle should be reported in Item 16 and Item 69 on the LM-2 for fiscal year ended December 31, 2023.

Also, Chorpenning received a trade allowance of \$51,000.00 for the 2020 Lincoln Aviator when he purchased the 2022 Yukon Denali in April 2022. As a result, Item 69 (Additional Information) should have reported the cost, book value, and trade-in allowance related to the 2020 Lincoln Aviator.

2. Disbursement to Officers and Employees

Local 700 did not include indirect reimbursements to officers and employees for the purchase of meals, parking, and office supplies totaling at least \$1,567.59 in Schedule 11 (All Officers and Disbursements to Officers) and Schedule 12 (Disbursements to Employees). It appears that the local erroneously reported these payments in Schedules 15 through 19. Specifically, you, Bartak, and Chorpenning incurred meal charges on union credit cards of \$14.14, \$1,196.97, and \$50.97, respectively.

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.

3. Automobile Expenses

Local 700 did not include in the amounts reported in Schedule 11 (All Officers and Disbursements to Officers) and Schedule 12 (Disbursements to Employees) disbursements for the operation and maintenance of union automobiles totaling at least \$53,443.05 charged to Wex Bank and \$2,998.87 charged to union-issued Visa credit cards.

The LM-2 instructions provide two methods for reporting automobile-related expenses. The union must report in Schedules 11 and 12 direct and indirect disbursements for the operation and maintenance of union owned and leased vehicles and the operation and maintenance of vehicles owned by union personnel (including gasoline, repairs, and insurance). The union may divide the expenses and report them in Columns F and G based on miles driven for union business (supported by mileage logs) compared with miles driven for personal use.

Alternatively, rather than allocating the expenses between Columns F and G, if 50 percent or more of an officer's or an employee's use of a vehicle was for official business, the union may report all of the expenses relative to the vehicle assigned to the officer or employee in Column F of Schedule 11 or 12 with an explanation in Item 69 (Additional Information) that the officer or employee used the vehicle part of the time for personal business. Similarly, if a vehicle assigned to an officer or employee was used less than 50 percent of the time for business, all of the expenses relative to that vehicle may be reported in Column G with an explanation in Item 69 that the officer or employee used the vehicle partly for official business.

4. Failure to Provide Additional Information in (Item 69) with Regard to the Assets Pledged

As of December 31, 2022, the local had sixteen outstanding loans from Horizon Bank which for which the automobiles were pledge as security. Although Item 16 was answered affirmatively in that the local had assets pledge or encumbered, Item 69 only reported that certain vehicles were pledged to secure related financing. Item 16 requires the disclosure of the asset pledged, the fair market value of the asset, and the description of the transaction related to the encumbrance.

5. Failure to Properly Report Ticket Sales to Members

Throughout the audit year, the local purchased tickets to local sporting events and sold the tickets to members at a discounted price. The local sold at least 447 Indianapolis Indians tickets totaling \$2,235.00 to members during the year but did not report any receipts in Item 39 (Sale of Supplies). Similarly, the local did not report the local's purchase of the tickets in Item 59 (Supplies for Resale).

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 700 amended its constitution and bylaws in 2019 but did not file a copy with its LM report for that year.

Local 700 must file an amended Form LM-2 for the fiscal year ended December 31, 2022 and amended bylaws, 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. The amended Form LM-2 and bylaws must be filed no later than September 29, 2023. Before filing, review the report thoroughly to be sure it is complete and accurate.

Other Issues

1. Duplicate Receipts

Members of Local 700 purchase discounted tickets to sporting events throughout the year. Members' payments are logged on a spreadsheet, but the local does not issue receipts. OLMS recommends that Local 700 use a duplicate receipt system where the union issues original pre-numbered receipts to all members who make payments directly to the union and retains copies of those receipts. A duplicate receipt system is an effective internal control because it ensures that a record is created of income which is not otherwise easily verifiable. If more than one duplicate receipt book is in use, the union should maintain a log to identify each book, the series of receipt numbers in each book, and to whom each book is assigned.

2. Use of Signature Stamp

During the audit, Shay advised that it is Local 700's practice for checks to be printed via QuickBooks with the electronic signatures (signature stamps) of the president and secretary-treasurer. Although the president and secretary-treasurer review disbursements on a monthly basis after the checks have been sent, they do not review the checks before they are issued. Article IX, Section C of Local 2007's bylaws requires that checks be signed by two of the three trustees. The president and treasurer represent two of the three trustees. 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. However,

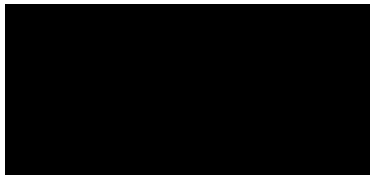
the use of a signature stamp for signers does not attest to the authenticity of the completed check and negates the purpose of the two-signature requirement. OLMS recommends that Local 700 review these procedures to improve internal control of union funds.

3. Copies of Cancelled Checks

Although the local receives copies of cancelled checks for all checking accounts save the general fund checking account, OLMS recommends the local obtain copies of the checks from Horizon Bank either in hard copy or from the on-line banking system. Examining cancelled checks for consistency with the disbursements is a responsible financial safeguard.

I want to extend my personal appreciation to UFCW Local 700 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. Tracy Bartak, President
Mr. Jonathan D. Karmel, Legal Counsel
UFCW Local 700 Executive Board