



September 29, 2010

Mr. John Risky, President
Bakery, Tobacco & Grain AFL-CIO Local 167G
100 N 3rd Street
Suite 50
Grand Forks, ND 58203

Case Number: [REDACTED]
LM Number: 543522

Dear Mr. Risky:

This office has recently completed an audit of Bakery, Tobacco & Grain AFL-CIO Local 167G 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 and Treasurer Chad Boushee on September 29, 2010, 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 167G's 2009 records revealed the following recordkeeping violations:

1. Receipts Records

Entries made by Local 167G in its QuickBooks accounting software did not indicate the dates that dues checkoff checks were received. During the audit, Mr. Boushee advised that he records dues checkoff checks in QuickBooks on the date that he deposits the checks, and does not record the dates that the checks are received in any union record. The dues checkoff checks are deposited to the general fund checking account about once a week.

Receipts records must include an adequate identification of all money received. The records should show the date and amount received, and the source of the money. The date of receipt is required to verify, explain, or clarify amounts required to be reported in Statement B (Receipts and Disbursements) of the Labor Organization Annual Report Form LM-2 (LM-2). The LM-2 instructions for Statement B state that receipts must be recorded when money is actually received, and disbursements must be recorded when money is actually paid out. Failure to record the date money was received could result in reporting some receipts for a different year than the one in which they were received.

2. Lost Wages

Local 167G did not retain adequate documentation for lost wage reimbursement payments to officers and employees totaling at least \$1,100. Records must be maintained 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 audit found that Local 167G documented the dates, number of hours lost, and rates of pay for most lost wage payments on sticky notes, but officers and employees did not identify on the notes the union business conducted.

During the audit, I provided a sample of an expense voucher Local 167G 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.

3. General and Debit Card Expenses

Local 167G did not retain adequate documentation for general union expenses and debit card expenses incurred by you, former Treasurer James Knapper, and other union officers and employees. The records were not adequate for the following reasons:

- a. **Itemized Receipts:** Local 167G did not require you or Mr. Knapper to submit itemized receipts for meal expenses totaling at least \$1,650. Itemized receipts provided by restaurants to officers and employees must be retained. 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.
- b. **Missing Receipts:** Local 167G did not retain adequate documentation for general fund and debit card expenses incurred by union officers and employees for at least \$5,200. For example, you charged \$1,334 on the debit card at Jackpot Junction for hotel rooms

and meals for officers and employees to attend steward training. However, you failed to retain the hotel folios or other records to support the expense. As another example, grills were purchased using the Unit 326 checking account to give away as raffle prizes, but Local 167G failed to retain a receipt for the expense.

- c. Explanations of Union Business Conducted: Local 167G's records of meals and other expenses did not always include written explanations of the union business conducted or the names and titles of the persons incurring or receiving the benefit of the restaurant charges. For example, you charged \$48 to Mike's Pizza on February 13, 2009, but did not identify the purpose of the debit card expense on any union record. During the audit you explained that the expense was a meal provided to the election committee in preparation for the general election.

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.

As noted above, labor organizations must retain original receipts, bills, and vouchers for all disbursements. The president and treasurer (or corresponding principal officers), who are required to sign your union's LM report, are responsible for properly maintaining union records.

As agreed, provided that Local 167G maintains adequate documentation as discussed above in the future, no additional enforcement action will be taken regarding these 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 167G for the fiscal year ended December 31, 2009, was deficient in the following areas:

1. Cash

It appears that the cash figures reported in Item 22 are not the cash figures according to the union's books after reconciliation to the bank statements. The instructions for Item 22 state that the union should obtain account balances from its books as reconciled to the balances shown on bank statements. The cash balance reflected in Local 167G's QuickBooks general ledger as of December 31, 2009 is \$206,309. However, the total reported in Item 22 (Column B) of the LM-2 is \$195,823. Mr. Boushee indicated that the wrong cash balance was most likely carried forward from the previous year's LM-2 report.

2. Disbursements to Officers and Employees

Local 167G did not include at least \$36,000 in disbursements to officers and employees in Schedule 11 (All Officers and Disbursements to Officers) and Schedule 12 (Disbursements to Employees). Schedule 11 and Schedule 12 were deficient in the following areas:

- a. Gross Salary Payments (Column D): Local 167G has agreements with American Crystal Sugar, North Dakota State Mill and Elevator, and Minn-Dak Sugar to reimburse the companies for wages paid to union officers and employees who leave work to conduct union business. Local 167G's general ledger showed that Local 167G disbursed over \$22,000 to those employers for lost wages during the audit period. These wages are considered indirect disbursements to officers and employees for LM reporting purposes and must be included in the amounts reported in Column D (Gross Salary Disbursements) of Schedule 11 and/or Schedule 12 allocated among those officers and employees who received the payments from American Crystal Sugar, North Dakota State Mill and Elevator, and Minn-Dak Sugar. However, Local 167G did not include the payments in the amounts reported in Column D of Schedule 11 and incorrectly reported no disbursements in Schedule 12. It appears these payments were erroneously reported in Schedule 15 (Representational Activities).
- b. Disbursements for Official Business (Column F): Local 167G reported a total of \$8,647 in disbursements for official business on Schedule 11 and did not report any disbursements on Schedule 12. However, the general ledger shows that Local 167G paid at least \$17,000 to officers and employees for reimbursed expenses and disbursed at least \$6,000 indirectly through expenses paid for using the union's debit card. Officers and employees were directly reimbursed for mileage, gas, per diem, and airfare when they traveled to conduct meetings, arbitrations, and seminars. Further, you and Mr. Knapper incurred meal expenses that were paid for using the union's debit cards. It appears that both the direct and indirect payments were erroneously reported in Schedule 15 or Schedule 19.

Direct disbursements to officers and employees for reimbursement of expenses they incurred while conducting union business must be reported in Column F of Schedules 11 and 12 (Disbursements for Official Business). In addition, indirect disbursements made to another party (such as a credit or debit card company) for business expenses union personnel incur must be reported in Column F of Schedules 11 and 12. However, 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 must be reported in Schedules 15 through 19. Any direct or indirect disbursements to union personnel for expenses not necessary for conducting union business must be reported in Column G (Other Disbursements) of Schedules 11 and 12.

- c. Withheld Taxes/Payroll Deductions: Local 167G failed to report any deductions (including tax withholdings) from officer salaries and other disbursements in Schedule 11. As a result, the total amount of the gross payments was incorrectly reported on net

disbursements line at the bottom of Schedule 11. As noted on page 21 of the LM-2 Instructions, the total amount of withheld taxes, payroll deductions, and all other deductions are to be entered on Line 8 (Less Deductions) of Schedule 11. The LM-2 filing software subtracts the amount reported on Line 8 from the amount reported on Line 7 (Total Officer Disbursements), and enters the difference on Line 9.

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 167G amended its constitution and bylaws in 2006, but did not file a copy with its LM report for that year.

Local 167G has now filed a copy of its constitution and bylaws.

Local 167G must file an amended Form LM-2 for the fiscal year ended December 31, 2009, to correct the deficient items discussed above. I explained to you the filing procedures and the availability of filing software on the OLMS website (www.olms.dol.gov). The amended Form LM-2 must be electronically filed as soon as possible, but not later than October 21, 2010. Before filing, review the report thoroughly to be sure it is complete and accurate, and properly signed with electronic signatures. Please notify me when the report has been filed.

Other Issue

Lack of Authorization for Expenses

Article III, Section F of the BCGTM Local 167G Bylaws provides that the full time president is entitled to an annual salary and a monthly auto allowance. However, the records show that you are also reimbursed for monthly gas expenses but no authorization for payment of those expenses could be found in union records. OLMS recommends that unions adopt written guidelines concerning such matters to help ensure effective internal controls and safeguard union assets.

I want to extend my personal appreciation to Bakery, Tobacco & Grain AFL-CIO Local 167G 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. Chad Boushee, Treasurer