



March 28, 2013

Mrs. Nancy Wnuk, President
Committee for Equal and Fair Representation
PO Box A3102
Chicago, IL 60690-3102

Case Number: 310-23525 [REDACTED]
LM Number: 543686

Dear Mrs. Wnuk:

This office has recently completed an audit of Committee for Equal and Fair Representation 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 on March 26, 2013, 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 the Committee of Fair and Equal Representation's (CFER) 2011 records revealed the following recordkeeping violations:

1. Receipts Records

Entries in CFER's receipts journal failed to record all deposits in at least three instances: a January 27, 2011 deposit of \$254.90, \$461.18 on March 28, 2011, and \$918.84 on March 30, 2011. CFER's receipts journal 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-3. The LM-2/3 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. Expense Records

CFER did not retain adequate documentation for reimbursed expenses and credit card expenses totaling at least \$3,234.59. These disbursements include the following: \$147.47 at Costco on January 18, 2011; \$80.00 checkcard clear on May 3, 2011; \$582.68 at Hotels.com on August 8, 2011; two purchases at Southwest for \$264 each on August 11, 2011; multiple Verizon Wireless payments made for \$159.15 on June 29, 2011, \$159.49 on August 23, 2011, \$218.05 on November 29, 2011, and \$214.49 on December 29, 2011. The union failed to maintain the record of \$1,145.26 charged at Best Buy on March 26, 2011, which was resolved during the audit.

3. Meal Expenses

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.

CFER did not maintain sufficient records of meal expenses and the records did not consistency include written explanations of union business conducted or the names and titles of the persons incurring the restaurant charges. For example, sufficient documentation was not maintained for the following disbursements: \$27.13 at Bandanas BBQ on January 29, 2011 and \$46.34 at Johnel's Restaurant on February 14, 2011. Union records of meal expenses must include written explanations of the union business conducted and the full names 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.

4. Professional Fees

The union failed to maintain adequate records to independently verify disbursements for professional fees totaling at least \$3,707.70. These arbitration-related disbursements include: \$1,679.70 on April 11, 2011, \$1,470.30 paid on July 1, 2011, and \$557.70 paid on July 7, 2011.

5. Meeting Minutes

During the audit, Ms. Wnuk advised OLMS audit that the executive board discusses disbursements and the president approves disbursements of union funds during the executive board meetings. The union meeting minutes failed to reflect discussion and approval for the following disbursements:

- a) Payments to members: \$200 on May 2, 2011, \$200 on October 21, 2011, \$200 on November 19, 2011, \$1,000 on March 8, 2011, and \$300 on October 24, 2011 for the same member;
- b) Local officers' salary increases and retroactive payments effective January 1, 2009;
- c) Reimbursements paid to officers for telephone expenses, such as the following checkcard payments to Verizon wireless: \$479 on October 31, 2011; \$218.05 paid on November 29, 2011; and \$214.49 paid on December 29, 2011.
- d) Increase in membership dues.

Minutes of all membership or executive board meetings must report any disbursement authorization made at those meetings.

The proper maintenance of union records is the personal responsibility of the individuals who are required to file CFER's LM report, which are the union's president and treasurer. You should be aware that under the provisions of Section 209(a) of the LMRDA and Section 3571 of Title 18 of the U.S. Code, willful failure to maintain records can result in a fine of up to \$100,000 or imprisonment for not more than one year, or both.

As agreed, provided that CFER improves documentation procedures and 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-3 filed by CFER for the fiscal year ended Month December 31, 2011, was deficient in the following areas:

1. Membership

Item 19 of LM-3 requires a union to report the number of members. CFER advised OLMS during the audit that the actual number of union members for fiscal year 2011 was over 500, not 450, which was how many members the union had reported. The union acknowledged the membership was under-reported by over 50 members.

2. Bond Coverage

Item 20 of the LM-3 report requires unions to report the maximum amount recoverable under the organization's fidelity bond for a loss caused by any officer or employee. CFER reported

\$23,000 as the maximum recoverable loss in Item 20 for fiscal year 2011. CFER's bond certificate indicates that the maximum recoverable loss for the union is \$20,000. See "Other Violations" section on page 5 for more information on bonding.

3. Disbursements to Officers

Item 24 requires a union to report all salaries and other direct and indirect disbursements to officers during the reporting period. An "indirect disbursement" to an officer is a payment made by your organization to another party for cash, property, goods, services, or other things of value received by or on behalf of the officer. "On behalf of the officer" means received by a party other than the officer or your organization for the personal interest or benefit of the officer. Such payments include those made through a credit arrangement under which charges are made to the account of your organization and are paid by your organization. Specifically, the union is obliged to report in column E of Item 24 all other direct and indirect disbursements to each officer other than salary, including allowances, disbursements which were necessary for conducting official business of your organization.

CFER did not include in Item 24 reimbursements to officers for cell phone expenses, reimbursed expenses for involved with arbitration, and payments made to the union credit card for meals, gas, and other applicable expenses that totaled at least \$3,768.48.

Item 45, "To Officers," requires a union to report the total of all salaries, allowances, travel advances to officers of your organization. The union disbursed funds to officers for services to the union that totaled at least \$201.84 that were not properly reported in Item 45.

4. Disbursements to Employees

Item 46, "To Employees," requires a union to report the total of all salaries, allowances, travel advances to employees of your organization during the reporting period. Include disbursements to individuals other than officers who receive lost time payments even if your organization does not consider them to be employees or does not make any other direct or indirect disbursements to them. The union failed to report disbursements employees for lost time, witness, and other arbitration services that totaled at least \$5,563.79.

5. Professional Fees

Item 49, "Professional Fees," requires a union to report the organization's total disbursements for "outside" legal and other professional services (auditing, economic research, computer consulting, arbitration, etc.). Include any disbursements made for the expenses of individuals or firms providing professional services to your organization. Do not include direct and indirect disbursements to officers and employees which must be reported in Items 45 (Cash Disbursements to Officers) and 46 (Cash Disbursements to Employees).

The union acknowledged during the audit, that the \$34,361 it reported in Item 49, Professional Fees, included disbursements to officers and employees that should have been reported in Items 24, 45, and 46.

6. Benefits or Contributions/Gifts/Grants

Item 50, "Benefits" obliges a union to enter the total of all direct and indirect benefit disbursements made by your organization. Direct benefit disbursements are those made to officers, employees, members, and their beneficiaries from your organization's funds.

Item 51, "Contribution, Gifts, and Grants," obliges a union to enter the total of all disbursements for contributions, gifts, and grants made by your organization.

CFER records indicate the union disbursed at least \$5,400 to members or families of deceased members for bereavement-related reasons and reported these disbursements in Item 48, "Office and Administrative Expense." In absence of the union having an official benefit plan or disbursement policy regarding these payments, the union is obliged to report these disbursements in either Item 50 or Item 51.

CFER must file an amended Form LM-3 for the fiscal year ending December 31, 2011, to correct the deficient items discussed above. I provided you with a blank form and instructions, and advised you that the reporting forms and instructions are available on the OLMS website (www.olms.dol.gov).

The amended Form LM-3 should be submitted to this office at the above address as soon as possible, but not later than April 26, 2013. Before filing, review the report thoroughly to be sure it is complete, accurate, and signed properly with original signatures.

Other Violations

The audit disclosed the following other violation:

Inadequate Bonding

The audit revealed a violation of LMRDA Section 502 (Bonding), which requires that union officers and employees be bonded for no less than 10 percent of the total funds those individuals or their predecessors handled during the preceding fiscal year.

Please provide this office proof of adequate bond coverage by April 26, 2013. If you are unable to obtain increased coverage through a Certified Reinsurer Company by the aforementioned date, please contact me to discuss your progress.

Other Issues

1. Expense Policy

The audit revealed CFER does not have a written policy regarding authority and procedure to disburse union funds and proper use of the union's debit and credit cards. OLMS recommends the union adopt clear written disbursement guidelines regarding what types of expenses personnel may charge with the union credit card and what type of out-of-pocket expenses may be reimbursed.

If written guidelines are adopted in the near future, it would be appreciated if you would forward these guidelines to this office. If the guidelines are incorporated into your union's Constitution, note so on Item 18 of the LM report and submit a copy of the amended Constitution with your completed LM report.

2. Potential Conflicts of CFER Constitution with the Labor-Management Reporting and Disclosure Act (LMRDA):

- a. CFER Constitution Article Nine "Revenue and Union Dues," Section 2. Cites: "Union dues paid to the local by the membership shall be set by the president and the executive board. The minimum amount to be collected cannot exceed 3 hours pay for each member per month." Please be advised that the LMRDA, Title I, Section 101a(3) indicates labor organization dues, initiation fees, and assessments are to be increased upon majority vote by secret ballot by members, or by delegates for labor organizations other a local union. Although the CFER constitution claims dues can be set by the president and the executive board, it is the union officers' obligation to assure the union and its constitution comply with all provisions of the LMRDA.
- b. CFER Constitution Article 7, Section 3 states: Rights Regarding Dues, Fees, and Assessments – Each member has the right to full financial disclosure of union records and transactions. The local union will provide a copy of the fiscal report that is filed on an annual basis with the U&S. Department of Labor to any member interested in this area."

The LMRDA, Title II, Section 201(c) further requires that: "Every labor organization required to submit a report under this title shall make available the information required to be contained in such report to all of its members (*not just the lm report*), and every such labor organization and its officers shall be under a duty enforceable at the suit of any member of such organization in any State court of competent jurisdiction or in the direct court of the United States for district which such labor organization maintains its principal office, to permit such member for just cause to examine any books, records, and accounts necessary to verify such report."

I want to extend my personal appreciation to Committee for Equal and Fair Representation 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. Michael Desmond, Treasurer