



December 17, 2015

[REDACTED] former Secretary-Treasurer  
Midwestern Council of the Food and Commercial  
Workers

Case Number: 320-6005652 [REDACTED]  
LM Number: 015736

Dear [REDACTED]

This office has recently completed an audit of Midwestern Council of the Food and Commercial Workers 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 former President [REDACTED] on November 30, 2015, 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 Midwestern Council's 2013 and 2014 records revealed the following recordkeeping violations:

## 1. Disbursements to Vendors and General Reimbursed Expenses

The Midwestern Council did not retain adequate documentation for disbursements to vendors and payments to you, former President [REDACTED], and former Recorder [REDACTED] totaling at least \$2,451 in 2013 and 2014. For example, adequate supporting documentation was not retained for a \$225.98 reimbursement to you for lodging at the Holiday Inn Express and Suites in Goshen, IN in January 2014. No business purpose was recorded on the itemized receipt retained for this expense and the only business purpose recorded on the check stub and check carbon was "Hotel Room Goshen," which is not sufficient in that you did not record the union business conducted requiring an overnight stay in Goshen, IN. As another example, adequate supporting documentation was not retained for a \$400 check issued to Tunes For You on August 16, 2014 for DJ services at the 2014 annual convention. In support of this payment, the Midwestern Council only retained the check stub and check carbon, which is not sufficient.

As another example, officers were not required to submit itemized meal receipts for meal expenses totaling at least \$63 in 2013 and 2014. The Midwestern Council's records of meal expenses also did not always include the business purpose or the names and titles of the persons incurring or receiving the benefit of the restaurant charges. For example, an itemized receipt was not retained for a \$36.27 meal expense incurred by [REDACTED] at Le Central-Paris in Las Vegas, NV on November 5, 2013 for an executive board meeting held while Midwestern Council members attended the Chemical Council Convention. In support of this expense, the Midwestern Council only retained a credit card signature receipt, which is not sufficient.

As noted above, labor organizations must retain original receipts, bills, and vouchers for all disbursements. 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. 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. 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. Reimbursed Auto Expenses

You and former Vice Presidents [REDACTED], and [REDACTED] received reimbursement for business use of your personal vehicles but did not retain adequate documentation to support payments made to yourself and them totaling at least \$532 during 2013 and 2014. Mileage reimbursements were claimed on mileage vouchers that normally identified the total miles driven and the union business conducted; however, the mileage vouchers were not sufficient because they failed to identify the locations traveled from and the dates of travel. The union must maintain records which

identify the dates of travel, locations traveled to and from, and number of miles driven. The record must also show the business purpose of each use of a personal vehicle for business travel by an officer or employee who was reimbursed for mileage expenses.

### 3. Lost Wages

The Midwestern Council did not retain adequate documentation for lost wage reimbursement payments to [REDACTED] and you totaling at least \$711 during 2014. 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 audit found that the Midwestern Council retained vouchers for lost wage reimbursements, but in some instances the vouchers were not sufficient because you and [REDACTED] did not always identify the actual date lost wages were incurred or the union business conducted.

During the exit interview, I provided a compliance tip sheet, *Union Lost Time Payments* that contained a sample of an expense voucher the Midwestern Council may use to satisfy this requirement. The sample identifies the type of information and documentation that the council must maintain for lost wages and other officer expenses.

### 4. Disposition of Property

During fiscal year 2014, the Midwestern Council purchased gift items (e.g., a wine glass, fishing equipment, and other hardware) totaling at least \$133 that were given away to members at its 2014 annual convention, but failed to maintain adequate records that identify the recipients of the items that were given away. Records must be retained which account for all union property. In the case of door prizes or other items sold or given away to members, records must be maintained to clarify and support information required to be reported by the Midwestern Council in Statements A and B of the Labor Organization Annual Report (Form LM-3). The value of any gift items or similar property on hand at the beginning and end of the year should be reported in Item 30 (Other Assets). In addition, the type and value of any property received or given away must be identified in the additional information section of the Labor Organization Annual Report (Form LM-3) report with the identity of the recipient(s) or donor of such property.

### 5. Receipt Dates not Recorded

Entries in the Midwestern Council's general ledger reflect the date the union deposited money, but not the date money was received for receipts totaling at least \$5,726 in 2014. 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-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.

Based on your assurance that your respective local unions 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 Reports (Form LM-3) filed by the Midwestern Council for the fiscal years ended (FYE) December 31, 2013 and December 31, 2014 were deficient in the following areas:

#### 1. Acquire/Dispose of Property

Item 13 (During the reporting period did your organization acquire or dispose of any assets in any manner other than by purchase or sale?) should have been answered, "Yes," because the union gave away electronics, hardware items, sporting goods, gift cards, and other items totaling more than \$3,668 during 2014. The union must identify the type and value of any property received or given away in the additional information section of the LM report along with the identity of the recipient(s) or donor(s) of such property. The union does not have to itemize every recipient of such giveaways by name. The union can describe the recipients by broad categories if appropriate such as "members" or "new retirees." In addition, the union must report the cost, book value, and trade-in allowance for assets that it traded in.

#### 2. Disbursements to Officers

The Midwestern Council did not include some reimbursed expenses to you and [REDACTED] totaling at least \$891 in 2013 and to you, [REDACTED], and [REDACTED] totaling at least \$1,475 in 2014 in the amounts reported in Item 24 (All Officers and Disbursements to Officers), Column E (Allowances and Other Disbursements). The Midwestern Council's disbursements records for 2013 indicate that you and [REDACTED] received reimbursed expenses and allowances totaling at least \$902; however, the total amount reported in Column E of Item 24 for you and [REDACTED] was \$11. The Midwestern Council's disbursements records for 2014 indicate that you, [REDACTED], and [REDACTED] received reimbursed expenses and allowances totaling at least \$1,645; however, the total amount reported in Column E of Item 24 for you, [REDACTED], and [REDACTED] was \$170. It appears the union erroneously reported these payments in Items 48 (Office and Administrative Expense) and/or Item 54 (Other Disbursements).

Most direct disbursements to Midwestern Council officers and some indirect disbursements made on behalf of its officers must be reported 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).

I am not requiring that the Midwestern Council file amended LM reports for 2013 and 2014 to correct the deficient items, but you have agreed to properly report the deficient items on all future reports your local union files with OLMS.

I want to extend my personal appreciation to the Midwestern Council of the Food and Commercial Workers 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: [REDACTED], former President