



February 3, 2016

Mr. Robert Burgess, President  
Laborers Local 367  
47 Middlesex Street  
Quincy, MA 02171

Case Number: 110-6003705  
LM Number: 512159

Dear Mr. Burgess:

This office has recently completed an audit of Laborers Local 367 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 Local Business Agent James Moore on February 3, 2016, 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 367's 2014 records revealed the following recordkeeping violations:

#### 1. General Reimbursed and Credit Card Expenses

Local 367 did not retain adequate documentation for reimbursed expenses incurred by Local President Robert Burgess, totaling at least \$112 for postage and an inspection sticker for the union vehicle.

Local 367 failed to maintain supporting documentation for credit card charges related to vehicle maintenance and union cell phones. The local did not retain documentation to support vehicle maintenance charges, totaling at least \$414.50. The local also did not retain documentation to support charges for the purchase of cell phones and associated equipment, totaling \$326.81.

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. Meal Expenses

Local 367 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, on September 3, 2014, the local charged \$117.92 at Muckey's Liquor in Lakeville, MA. The corresponding receipt was inscribed with the notation "hosted district council meeting," but did not record who attended the meeting. 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.

## 3. Lack of Salary Authorization

Local 367 did not maintain records to verify that the salaries reported in Item 24 (All Officer and Disbursements to Officers) of the LM-3 was the authorized amount and therefore was correctly reported. For example, during the audit year, Local Business Agent James Moore received \$48,000 in salary payments and \$12,480 in pension benefits.

As discussed during the audit opening interview, Mr. Moore works full time for the Boston Housing Authority and receives his regular salary from his employer while conducting union business. Additionally, Mr. Moore receives \$4,000 in monthly salary payments that is not dependent upon working a set number of hours for the local. The local could not produce the 2007 general membership meeting minutes that last authorized officer salaries. 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 proper maintenance of union records is the personal responsibility of the individuals who are required to file Local 367's LM report. 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. Under the provisions of Section 209(c) of the LMRDA and Section 3571 of Title 18 of the U.S. Code, willful destruction or falsification of records can result in a fine of up to \$100,000 or imprisonment for not more than one year, or both. The penalties provided in Section 209(c) and

Section 3571 of Title 18 apply to any person who caused the violations, not just the individuals who are responsible for filing the union's LM report.

### 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 367 for the fiscal year ended December 31, 2014, was deficient in the following areas:

1. Disbursements to Officers

Local 367 did not include some reimbursements to officers totaling at least \$112 in the amounts reported Item 24 (All Officers and Disbursements to Officers). It appears the union erroneously reported these payments in Item 54 (Other Disbursements).

The union must report most direct disbursements to Local 367 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. Disbursements to Employees

Local 367 did not include payments to Clerical Assistant [REDACTED] totaling at least \$3,250 in Item 46 (Disbursements to Employees). It appears that the local erroneously reported the payments in Item 48 (Office & Administrative Expense).

In Item 46, enter the total of all salaries, travel advances, which are not considered loans, and other direct and indirect disbursements (less deductions) to employees of the organization. Include disbursements to individuals other than officers even if your organization does not consider them to be employees.

I am not requiring that Local 367 file an amended LM report for 2014 to correct the deficient items, but Local 367 has agreed to properly report the deficient items on its LM report for 2015.

As discussed during the exit interview, you advised that Local 367 no longer represents private sector employees and is therefore no longer subject to the reporting requirements of the LMRDA. A terminal financial report must be filed if your organization went out of existence at any time during your fiscal year as a reporting organization, and must be filed within 30 days

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after the date it “ceased to exist.” Please indicate on your terminal report in Item 56 (Additional Information) the reason your organization no longer falls subject to the reporting requirements of the LMRDA.

I want to extend my personal appreciation to Laborers Local 367 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,

A solid black rectangular redaction box covering the signature of the investigator.

Investigator

cc: Mr. James Moore, Business Manager  
Mr. John Finnerty, Attorney/CPA