



August 14, 2017

Mr. Jose Rivera, Treasurer
SMART Local 168
826 N. Oakwood St.
Griffith, IN 46319

Case Number: 310-6009652
LM Number: 013340

Dear Mr. Rivera:

This office has recently completed an audit of SMART Local 168 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 on July 19, 2017, 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 168's 2015 records revealed the following recordkeeping violations:

1. General Expenses and Dues Refunds

Local 168 did not retain adequate documentation for reimbursed expenses and dues refunds paid to union officers and members totaling at least \$1,482.37. For example, dues refunds issued via check [REDACTED] for \$500.00 and check [REDACTED] for \$336.58 to [REDACTED], an

electronic funds transfer on June 2, 2015 for \$104.70 to Verizon, and check [REDACTED] for \$120.00 to President Chris Frale did not have any supporting documentation.

As noted above, labor organizations must retain original receipts, bills, and vouchers for all disbursements. In the case of dues refunds, a union record should indicate the reason for the dues refund and the dues period being refunded. 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 168 records of meal expenses totaling at least \$1,600.00 did not include written explanations of union business conducted and/or the names and titles of the persons incurring the restaurant charges. For example, the business purpose or names of attendees were not disclosed by the local for meals at Uncle Julio's Mexican Food (Orland Park, IL) on May 15, 2015 for \$68.65, Gatto's Restaurant (New Lenox, IL) on April 25, 2015 for \$69.44, and no business purpose was disclosed by the local for meals at Red Lobster Restaurant (Orland Park, IL) on July 25, 2015 for \$143.23. 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. Lost Wages

Local 168 did not retain adequate documentation for lost wage reimbursement payments to union officers and employees totaling at least \$6,567.50. 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 OLMS audit found that Local 168 officers and employees did not identify on the lost wage vouchers 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 which Local 168 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.

Based on your assurance that Local 168 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-3) filed by Local 168 for the fiscal year ended

December 31, 2015, was deficient in the following areas:

1. Employee Salary and Expenses

Item 17 (Pay any employee salary, allowances, and other expenses which, together with any payments from affiliates, totaled more than \$10,000?) should have been answered, "No," because the union did not pay any employee more than \$10,000 of salary and expenses during the year. Additional information for this question was provided in Item 56 (Additional Information Summary) which noted that Treasurer [REDACTED] earned more than \$10,000 during the reporting year. All labor organization officers are not employees of the union for reporting purposes. All officer salaries and expenses are reported in Item 24 (All Officers and Disbursements to Officers). All employee salaries and expenses are reported in Item 46 (To Employees).

2. Officer and Employee Disbursements

Local 168 incorrectly reported the names of some union representatives and the total amounts of payments to them or on their behalf totaling \$7,140.00 in Item 24 (All Officers and Disbursements to Officers) that were not officers of the union as stipulated in Article 12, Section 1 (Number of Officers and Title) of the SMART Constitution. Additionally, the local incorrectly reported lost wage payments to a member totaling \$2,204.08 that were reported elsewhere in the Form LM-3 instead of Item 46 (Disbursements to Employees). The LM-3 instructions require all payments to persons who work for the union and are not officers of the local to be reported in Item 46. The union must only report in Item 24 all persons who held office during the year, regardless of whether they received any payments from the union.

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 168 amended its constitution and bylaws in 2006, but did not file a copy with its LM report for that year. Local 168 has now filed a copy of its constitution and bylaws.

I am not requiring that Local 168 file an amended LM report for 2015 to correct the deficient items, but Local 168 has agreed to properly report the deficient items on all future reports it files with OLMS.

I want to extend my personal appreciation to SMART Local 168 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: Mr. Chris Frale, President