



January 13, 2017

Mr. Zachary Swanstrom, President
Electrical Workers Local 366
5005 Highway 33
Saginaw, MN 55779

Case Number: 320-6009403
LM Number: 023571

Dear Mr. Swanstrom:

This office has recently completed an audit of Electrical Workers Local 366 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, Financial Secretary Richard Swenson, and Recording Secretary Matt Jones on January 10, 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 366's 2014 and 2015 records revealed the following recordkeeping violations:

1. Lack of Supporting Documentation for General Fund Expenses

Local 366 did not retain adequate supporting documentation for at least 17 general fund expenses paid to vendors totaling at least \$1,109. For example, the local made 15 disbursements to the Moose Lodge in Proctor, MN for “rent” or “food” as identified in the union’s ledger. The local kept a receipt in support of one of the Moose Lodge expenses which identified food and drink purchased; however, no date was on the receipt nor did the union describe the union business that was conducted requiring the expense to be incurred. There was no supporting documentation retained for the other 14 disbursements made to the Moose Lodge. During the audit, the local explained that the disbursements to the Moose Lodge were for union meetings and an arrangement with the establishment that the local purchase food in lieu of a rental fee for using the space.

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. Failure to Maintain Meeting Minutes

Local 366 did not maintain meeting minutes for the membership meetings held from January through September 2014. Mr. Jones stated that minutes from 2014 were taken and stored in an electronic format on a computer that crashed and is no longer accessible. In addition, Mr. Jones was unable to locate any of the meeting minutes from 2013 and only “random” meeting minutes from 2011 and 2012. Minutes of all membership meetings during which disbursement authorizations are made or union governing decisions are made must be retained, as such records clarify, verify, and support information required to be reported on the LM-3 report.

3. Lack of Salary Authorization

Local 366 did not maintain records to verify that the salaries reported in Item 24 (All Officer and Disbursements to Officers) of the LM-3 were the authorized amounts and therefore were correctly reported. During the audit, the officers advised that salaries paid to the union’s officers were authorized by the membership and voted on at a membership meeting before the audit period; however, nobody knew how far back the authorization was recorded. Mr. Jones was unable to find meeting minutes that show the authorized 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.

4. Lost Wages

Local 366 did not retain adequate documentation for a lost wage reimbursement paid to you in the amount of \$252.21. 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 366 did not maintain any records to support the lost wage payment to you. The local explained that the payment was for a day of wages to conduct a contract ratification election.

During the exit interview, I provided a compliance tip sheet, *Union Lost Time Payments*, that contained a sample of an expense voucher Local 366 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.

5. Receipt Dates and Disbursement Dates, Amounts, and Payees not Accurately Recorded

Entries in Local 366's ledger reflect the date the union deposited money, but not the date money was received. During the audit year, Local 366 handled receipts totaling at least \$44,125. Mr. Swenson stated that he makes monthly deposits of about two to three checks received on various dates. Mr. Fernandez confirmed that he records all receipts on the ledger using the deposit date from the bank statements, regardless of when the local actually receives the money.

The audit also revealed that Mr. Fernandez did not regularly include the check date, check amount or payee for disbursements recorded in the ledger or on check stubs. For example, Check ██████ to Systems Council appears on the ledger sheet titled May 2015; however, the union did not record the date or amount of this check in the ledger or on the check stubs.

Union receipts records must show the date of receipt and union disbursement records must identify the date of disbursement. The receipt and disbursements dates are 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 or disbursed could result in the union reporting some receipts or disbursement for a different year than when it actually received or disbursed them.

Based on your assurance that Local 366 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(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 366 amended its constitution and bylaws in 1991, but did not file a copy with its LM report for that year. Local 366 has now filed a copy of its constitution and bylaws.

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 366 for the fiscal year ended December 31, 2015, was deficient in the following areas:

1. Membership (Item 19)

Local 366 reported no members in Item 19 (Number of Members) of the LM-3 Report. During the audit Mr. Swenson advised that the local has approximately 42 members. Local 366 is required to report the number of members in their organization at the end of the reporting period, including all categories of members who pay dues.

2. Disbursements to Officers and Employees

Local 366 reported total gross salaries of \$8,421 in Column D (Gross Salary) of Item 24 (All Officers and Disbursements to Officers), but the audit revealed that officers were only paid total gross salaries of \$7,917. For example, a review of the checks recorded in the general ledger to Mr. Jones revealed that he received total payments of \$900, but you reported \$1,100 was paid to him. In addition, no payments to you and Mr. Jones were reported in Column E (Allowances and Other Disbursements) and the audit revealed that at least \$329 and \$59 were paid to you and Mr. Jones during the audit year.

The audit also revealed that Local 366 failed to report withheld taxes and other payroll deductions, in Line 10 (Less Deductions) of Item 24. For all officers who were paid a salary, the union must enter the total amount of withheld taxes, payroll deductions, and all other deductions on the "Less Deductions" line.

In addition, the audit revealed that Local 366 did not include any disbursements to employees totaling at least \$678 in the amounts reported in Item 46 (Disbursements to Employees). It appears that union erroneously reported these payments in Item 54 (Other Disbursements). Disbursements to individuals other than officers who receive lost time payments, stipends, allowances, reimbursed expenses, etc., for conducting union business must be reported in Item 46 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 must report most direct disbursements to Local 366 officers and some indirect disbursements made on behalf of its officers in Item 24. Most direct disbursements to Local 366 employees and some indirect disbursements made on behalf of its employees must be reported in Item 46. A "direct disbursement" to an officer/employee is a payment made to an officer/employee 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/employee 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/employee. However, indirect disbursements for temporary lodging (such as a union check issued to a hotel for room rent only) or for transportation by a public carrier (such as an airline) for an officer/employee traveling on union business should be reported in Item 48 (Office and Administrative Expense).

3. Statement A (Cash Balance and Total Assets) and Cash Reconciliation

It appears that the cash figure reported in Item 25 (A) (Cash, Start of the Reporting Period) and Item 25 (B) (Cash, End of the Reporting Period) for 2015 are not the figures according to Local 366's books after reconciliation to the bank statements. The cash balance as of January 1, 2015, as reconciled to the bank statements, was \$6,917; however, the cash balance reported in Item 25 (A) was \$5,263. The cash balance as of December 31, 2015, as reconciled to the bank statements, was \$4,774; however, the cash balance reported in Item 25 (B) was \$2,851. The instructions for Item 25 state that the union should obtain account balances from its books as reconciled to the balances shown on bank statements. Also, the local erroneously reported \$9,078 in Item 31 (A) (Total Assets, Start of Reporting Period) and \$6,666 in Item 31 (B) (Total Assets, End of Reporting Period). Item 31 should equal the respective totals of Items 25 through 30, columns (A) and (B).

In addition, the cash figures reported by Local 366 for the reporting period do not balance (reconcile). Specifically, cash at the start of the reporting period (Item 25 (A)) plus total receipts (Item 44) minus total disbursements (Item 55) does not equal the cash at the end of the reporting period (Item 25(B)). It appears that this discrepancy is a result inaccurate figures reported in Item 25 (A), Item 44, and Item 55.

4. Total Receipts and Disbursements Under Reported

The audit revealed that in 2015 Local 366 had total receipts of \$44,122 according to bank statements reconciled with the union's receipt records. However, Local 366 reported total receipts of \$35,256 in Item 44 (Total Receipts) section of Statement B (Receipts and Disbursements). Similarly, the audit revealed that Local 366 disbursed funds totaling \$43,623 during 2015; however, Local 366 reported total disbursements of \$42,365 in Item 55 (Total Disbursements) of the Cash Disbursements section of Statement B. During the exit interview, you were unable to explain this discrepancy.

The LM-3 instructions require that the LM-3 be prepared using the cash method of accounting. Under the cash method of accounting, receipts are recorded when money is actually received by your organization and disbursements are recorded when money is actually paid out by your organization. Checks issued at the end of the fiscal year that do not clear the union's checking account until after the start of the next fiscal year must still be reported in the fiscal year that the checks were actually issued.

Local 366 must file an amended Form LM-3 for the fiscal year ended December 31, 2015, to correct the deficient items discussed above. I encourage Local 366 to complete, sign, and file its

report electronically using the Electronic Forms System (EFS) available at the OLMS website at www.olms.dol.gov. Reporting forms and instructions can be downloaded from the website, if you prefer not to file electronically. The amended Form LM-3 should be filed electronically no later than January 27, 2017 or submitted to this office at the above address by the same date. Before filing, review the report thoroughly to be sure it is complete and accurate. Paper reports must be signed with original signatures.

I want to extend my personal appreciation to Electrical Workers Local 366 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 large black rectangular redaction box covering the signature of the investigator.A smaller black rectangular redaction box covering the name of the investigator.

Investigator

cc: Mr. Curtis Fernandez, Treasurer
Mr. Matt Jones, Recording Secretary
Mr. Richard Swenson, Financial Secretary