



August 13, 2018

Mr. Joseph Nguyen, President
Communications Workers Local 84913
2015 W. Western Avenue, Suite 113
South Bend, IN 46619

Case Number: 310-6012623
LM Number: 039016

Dear Mr. Nguyen:

This office has recently completed an audit of Communications Workers Local 84913 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 Treasurer David Szymczak on August 9, 2018, 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 84913's records for fiscal year ended September 30, 2017, revealed the following recordkeeping violations:

1. General Reimbursed Expenses

Local 84913 did not retain adequate documentation for reimbursed expenses incurred by union officers, totaling at least \$1,100. For example, officers incurred expenses related to

union travel in which no documentation was retained, or only copies of the original supporting documentation. In one instance, an officer only submitted a personal credit card statement as supporting documentation for airfare. Credit card statements alone are not sufficient to fulfill the recordkeeping requirement.

As noted above, labor organizations must retain original receipts, bills, and vouchers for all disbursements. The president and treasurer (or corresponding principal officers), who are required to sign your union's LM report, are responsible for properly maintaining union records.

2. Lost Wages

Local 84913 did not retain adequate documentation for lost wage reimbursement payments to union officers, totaling at least \$2,000. Records must be maintained 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 84913 maintained vouchers that identify the total hours claimed and rate of pay, but did not always identify the date of the claim or the specific business purpose. During the exit interview, I provided the compliance tip, *Union Lost Time Payments*, which identifies the type of information and documentation that the local must maintain.

3. Failure to Record Cash Receipts and Disbursements

Local 84913 did not record in its receipt and disbursement records receipts and disbursements for the purchase of t-shirts. Local 84913 collected at least \$700 from members to purchase t-shirts. The cash receipts were provided directly to the vendor. Local 84913 did not record the receipts or disbursement in any union record. Union receipts records must include an adequate identification of all money the union receives. The records should show the date and amount received, and the source of the money. In addition, union disbursement records must include an adequate identification of all money the union disburses. Labor organizations must also retain original receipts, bills, and vouchers for all disbursements.

4. Meeting Minutes

Local 84913 failed to retain executive board and membership meeting minutes for the October 2016 and November 2016 meetings. Local 84913 also failed to maintain membership meeting minutes for April 2017 and executive board meeting minutes for July 2017. You and Treasurer Szymczak advised the minutes were created but could not be found. You also advised that at least travel (and related expenses), donations, or large purchases are authorized and approved by the executive board and/or the membership. Minutes of all membership or executive board meetings during which disbursement authorizations are made must be retained, as such records clarify, verify, and support information required to be reported on the LM-3 report.

Based on your assurance that Local 84913 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 84913 for the fiscal year ended September 30, 2017, was deficient in the following areas:

1. Disbursements to Officers

Local 84913 did not include some reimbursements to officers totaling at least \$6,300 in the amounts reported Item 24 (All Officers and Disbursements to Officers), Column E (Allowances and Other Disbursements). For example, the general ledger, check stubs, and vouchers show you received reimbursement for lodging, meals, and other expenses totaling at least \$4,200. However, nothing is reported in Column E. It appears the union erroneously reported these payments in Column D (Gross Salary) of Item 24.

The union must report most direct disbursements to Local 84913 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. Dues Income and Per Capita Payments

Local 84913 overreported the dues collected in Item 38 (Dues) and disbursements for per capita tax in Item 47 (Per Capita Tax) by at least \$38,000. Local 84913's dues are withheld from members' wages and remitted to the Communications Workers International Union. The CWA International Union retains certain amounts for per capita taxes and remits the remaining funds to Local 84913. The amount reported by Local 84913 in Item 38 appears to include the full amount remitted to the CWA International Union rather than the amount actually received by Local 84913. The amount reported by Local 84913 in Item 47 appears to erroneously include amounts retained by the CWA International Union for per capita taxes. The LM-3 instructions require that you report in Item 38 only those funds actually received by your organization and that you report in Item 47 only those funds actually disbursed by your organization for per capita taxes.

3. Employees Listed as Officers

Local 84913 identified 13 individuals in Item 24 (All Officers and Disbursements to Officers) as stewards and election committee members. You advised these individuals are not officers of Local 84913. Disbursements to stewards, election committee members, and other individuals, who are not officers, and who receive lost time payments from your organization must be included in the amount reported in Item 46 (Disbursements to Employees).

4. Cash Receipts and Disbursements

During the audit, you advised that Local 84913 collected at least \$700 from members to purchase t-shirts. The cash collected was disbursed directly to the vendor. Treasurer Szymczak advised the cash receipts and cash disbursements were erroneously omitted from the report. The LM-3 Instructions require all receipts and disbursements that cannot be reported elsewhere in Statement B (Receipts and Disbursements) to be reported in Item 43 (Other Receipts) and Item 54 (Other Disbursements), respectively.

Local 84913 must file an amended Form LM-3 for the fiscal year ended September 30, 2017, to correct the deficient items discussed above. I encourage Local 84913 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 September 9, 2018, 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.

Other Issue

Lost Time Discrepancies

The audit revealed some possible discrepancies concerning lost time payments to Chief Steward Kenneth Samulski. Some Local 84913 officers and employees, including Samulski, receive varying wage rates per pay period due to shift premium, overtime, and incentive pay. The audit revealed numerous instances where Mr. Samulski claimed a wage rate higher than his actual wage rate. The audit also revealed that Mr. Samulski also did not claim or seek reimbursement from Local 84913 for approximately 39.50 hours he was on unpaid leave for union business from the employer. Mr. Samulski received at least \$1,100 in excess lost time payments, after giving him credit for the 39.50 hours of unpaid leave.

You and Mr. Szymczak advised that you did not know why Mr. Samulski submitted claims with a wage rate higher than his actual wage rate. However, you advised that Mr. Samulski routinely does work for the union for which he is not compensated. Further, you advised that Mr. Samulski was owed at least \$1,200 in lost vacation pay from the union, which you would likely

withhold to pay the excess lost time payments. You stated you would discuss the matter with the executive board to find an appropriate resolution.

OLMS recommends Local 84913 adopt written guidelines for reimbursement of lost wages as such policies can help ensure effective control over union finances. In addition, OLMS recommends that Local 84913 review its lost time and payroll procedure to improve internal control of union funds. Verification of lost time claims submitted by union personnel by either allowing trustees to compare lost time claims to employer records or by requiring union personnel to submit proof of lost wages claimed (e.g. time cards) can be an effective internal control for such payments.

I want to extend my personal appreciation to Communications Workers Local 84913 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.

Investigator

cc: Mr. David Szymczak, Treasurer