



October 30, 2018

Mr. Toby Hauck, President
Air Traffic Controllers Local ZAU
619 W. Indian Trail Road
Aurora, IL 60506

Case Number: 310-6013134
LM Number: 517943

Dear Mr. Hauck:

This office has recently completed an audit of Air Traffic Controllers Local ZAU under the Compliance Audit Program (CAP) to determine your organization's compliance with the provisions of the Civil Service Reform Act of 1978 (CSRA), 5 U.S.C. 7120, and the Department's regulations, 29 CFR 458. As discussed during the exit interview with you and Treasurer Tony Albert on October 30, 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 of the LMRDA and Title 29 of the Code of Federal Regulations (C.F.R.) Section 403.7 require, among other things, that labor organizations maintain adequate records for at least five years after reports are filed by which the information on the reports can be verified, explained and clarified. Pursuant to 29 C.F.R. Section 458.3, this recordkeeping provision of the LMRDA applies to labor organizations subject to the requirements of the Civil Service Reform Act of 1978 (CSRA) as well. Therefore, as a general rule, labor organization must retain 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 ZAU's 2017 records revealed the following recordkeeping violations:

1. Debit Card Expenses

Local ZAU did not retain adequate documentation for debit card expenses incurred by you totaling at least \$4,200. For example, over \$4,200 was charged to the union's debit card for a member solidarity event at WhirlyBall. Only the bank statement was retained. Bank

statements and/or non-itemized credit card slips alone are not sufficient to fulfill the recordkeeping requirement.

As noted above, labor organizations must retain original receipts, bills, and vouchers for all disbursements. For debit card expenses, original receipts include itemized receipts for each debit card charge. 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. Meal Expenses

Local ZAU's records of meal expenses did not always include the full names and titles of the persons incurring the restaurant charges, totaling at least \$13,100. Local ZAU retained vouchers and supporting receipts for meals which usually listed the union business conducted and the names of those who were present. However, in all instances, Local ZAU officers failed to include titles of the persons incurring the restaurant charges. In addition, sometimes the names of those who incurred the meal expenses were not legible. 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.

In addition, for a majority of the \$13,100 in meal expenses where the union failed to include titles of the persons incurring the restaurant charge, Local ZAU did not always require officers and employees to submit itemized receipts for meal expenses totaling at least \$7,500. For example, you were reimbursed for a meal expense at Rock N' Roll Sushi, totaling \$3,013.38. The voucher states the meal expense was for 32 officers, employees, and members at the Communicating for Safety Conference. However, only the credit card slip was maintained. The union must maintain itemized receipts provided by restaurants to officers and employees. 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.

3. Cell Phone Bills

During the audit year, the union paid the personal cell phone bills of you and Vice President Robert Mendenhall. However, you and Mr. Mendenhall failed to submit adequate documentation to Local ZAU for the payment of personal cell phone bills, by submitting only portions of the personal bills, by submitting only the summary page of the bills, or only submitting payment confirmation printouts. If Local ZAU pays for any business calls made from an individual's personal cell phone, or pays the entire bill, either as a direct payment to the telephone company or as a reimbursement to the individual, Local ZAU must retain the original telephone bills. In addition, the documentation retained must clearly note the charges paid by Local ZAU.

4. Receipt Dates and Sources not Recorded

In some instances, entries in Local ZAU's general ledger reflect the date money was deposited and do not identify the date money was received or sources of the payments. The date, source, and amount of receipt is required to be recorded in union records 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 reporting some receipts on the LM-3 for a different year than the year it actually received them.

5. Failure to Record a Receipt

Local ZAU did not record in its records a receipt related to the Whirlyball solidarity event. Local ZAU disbursed at least \$4,200 to the vendor by debit card. You advised that the National Union reimbursed you, not the union. You subsequently issued a check to Local ZAU, and the funds were deposited. However, the Local ZAU did not record this receipt in any union record. Union receipts records must include an adequate identification of all money the union receives. As noted above, the records should show the date and amount received, and the source of the money.

Based on your assurance that Local ZAU will retain adequate documentation in the future, OLMS will take no further enforcement action at this time regarding the above violations.

Reporting Violations

Pursuant to 29 C.F.R., Section 458.3, the reporting requirement under 29 C.F.R. Section 403.2 (see Section 201(b) of the Labor-Management Reporting and Disclosure Act (LMRDA)) is made applicable to labor organizations subject to the requirements of the CSRA. This provision requires labor organizations to file annual financial reports that accurately disclose their financial condition and operations. The audit disclosed a violation of this requirement. The Labor Organization Annual Report (Form LM-3) filed by Local ZAU for the fiscal year ended December 31, 2017, was deficient in the following areas:

1. Rates of Dues and Fees

Item 23b (Initiation Fees) should have been answered with an amount, because Local ZAU requires new members to pay initiation fees. You and Treasurer Albert advised that members who join the union after 60 days from employment or transfer are required to pay a one-time initiation fee of 1.41% of annual gross wages. Subject to executive board approval the member may be reimbursed the initiation fees less \$500, which is retained by the union. The initiation fee is waived for members who join the union within 60 days of being hired or transfer. It appears Item 23b was erroneously left blank.

2. 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 sweatshirts, t-shirts, hats, mugs, gift cards, and baseball tickets totaling at least \$13,000 during the year. 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."

3. Disbursements to Officers

Local ZAU failed to correctly report disbursements to officers in the amounts reported in Item 24 (All Officers and Disbursements to Officers) totaling at least \$6,800. For example, the union's general ledger and vouchers show you received direct and indirect expense reimbursements totaling at least \$21,394; however, only \$19,349 was reported in Column E (Allowances and Other Disbursements). In addition, Treasurer Tony Albert received direct reimbursement for expenses totaling at least \$5,333. However, only \$877 was listed in Column E. It appears these payments were erroneously reported elsewhere on the report.

Most direct disbursements to Local ZAU's 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).

4. Statement B (Receipts & Disbursements)

Local ZAU misreported both receipts and disbursements by at least \$4,200. During the audit year, Local ZAU and other National Air Traffic Controllers of America (NATCA) locals held a solidarity event at Whirlyball. The bank statements show that Local ZAU disbursed over \$4,200 for the event, but the disbursement was erroneously omitted from the report. In addition, the bank statements show Local ZAU received reimbursement from you in the same amount. You advised that the National Union reimbursed you, not the union. You subsequently issued a check to Local ZAU. However, only \$1,900 was reported in Item 43 (Other Receipts).

The purpose of Statement B (Receipts & Disbursements) is to report the flow of cash in and out of your organization during the reporting period. Since Statement B reports all cash flowing in and out of your organization, "netting" is not permitted. "Netting" is offsetting of

receipts against disbursements and reporting on the balance (net) as either a receipt or disbursement. The amount received from you for the solidarity event for should have been reported in Item 43 (Other Receipts). The disbursements to the vendor for the solidarity event should have been reported in Item 54 (Other Disbursements).

I am not requiring that Local ZAU file an amended LM report for 2017 to correct the deficient items, but Local ZAU has agreed to properly report the deficient items on all future reports it files with OLMS.

Other Issues

1. Duplicate Expenses

The audit revealed three instances where you were reimbursed for the same expense twice, totaling at least \$209.06. On May 16, 2017, by check [REDACTED], you were directly reimbursed for a car rental, totaling \$126.96. On the same date, by check [REDACTED] you were directly reimbursed for the same expense. On September 19, 2017, your taxi/Uber expenses, totaling \$20.69 were included twice on your voucher as taxi expenses and meal expense. On October 24, 2017, a directly reimbursed meal expense was paid twice (one expense documented with the credit card slip, and one documented with the itemized receipt), totaling \$61.41. You advised these duplicate payments were made in error. OLMS recommends that Local ZAU review its expense and disbursement procedures to improve internal control of union funds. If any repayment is made to Local ZAU, I would appreciate it if you would provide evidence of that payment to me.

2. Expense Policy

As discussed during the exit interview with you and Mr. Albert, the audit revealed that Local ZAU does not have a clear policy regarding the types of expenses personnel may claim for reimbursement and the types of expenses that may be charged to the union debit card. The audit revealed in at least one instance, Local ZAU paid for food and drinks for two officers' spouses, which you advised was not allowed. OLMS recommends that unions adopt written guidelines that identify what types of expenses will be paid.

I want to extend my personal appreciation to Air Traffic Controllers Local ZAU 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]
[REDACTED]

Senior Investigator

cc: Mr. Tony Albert, Treasurer (via email)