



February 24, 2020

Mr. Bradley Witthuhn, President
Sheet Metal, Air, Rail, and Transportation Workers
Local 590
[REDACTED]
Sun Prairie, WI 53590

Case Number: 320-6017266 [REDACTED]
LM Number: 040649

Dear Mr. Witthuhn:

This office has recently completed an audit of Sheet Metal, Air, Rail, and Transportation Workers (SMART) Local 590 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 Adam Lutt on February 20, 2020, 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 590's 2018 records revealed the following recordkeeping violations:

1. Lost Wages

Local 590 did not retain adequate documentation for lost wage reimbursement payments to Local Chairman (Engineers) Travis Hanley totaling at least \$960 during the audit year. 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 audit found that the union retained written requests for lost wage reimbursements, but in some instances the requests were not sufficient because Mr. Hanley did not always identify the date the lost wages were incurred or a description of 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 Local 590 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.

2. Receipt Dates not Recorded

Entries in Local 590's Winstabs receipts control journal reflect the date the union deposited money or made entries in the receipts control journal, but not the date money was received for six dues checkoff checks totaling at least \$15,833. Union receipts records must show the date of receipt. The date of receipt is required to verify, explain, or clarify amounts required to be reported in Statement B (Receipts and Disbursements) of the Labor Organization Annual Report (Form 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 the union reporting some receipts for a different year than when it actually received them.

3. Lack of Salary Authorization

Local 590 did not maintain records to verify that the salaries reported in Item 24 (All Officers and Disbursements to Officers) of the LM-3 were the authorized amounts and therefore correctly reported.

Section III of Local 590's bylaws states that the "...President, Secretary/Treasurer and Local Chairman positions will be paid wages and mileage only, on a monthly basis according to rates set by membership authorization as stated in previous Local 0590 meeting minutes without further approval..." At the opening interview, Mr. Lutt advised that Local 590's membership approved its officers' salaries "years ago" and that the authorization should be included in Local 590's minutes. However, authorization for union officer salaries could not be identified in Local 590's minutes or any other union records. The union must keep a record, such as meeting minutes, to show the current salaries as authorized by the entity or individual in the union with the authority to establish salaries.

Based on your assurance that Local 590 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 590 for the fiscal year ended December 31, 2018, was deficient in the following areas:

1. Dues Rate Under-reported

The audit revealed that Local 590's regular dues rate ranged from \$133 to \$147 per month during 2018. However, Local 590 reported that its regular dues/fees ranged from \$35 to \$50 per month in Item 23 (What are the labor organization's rates of dues and fees?). At the opening interview, Mr. Lutt advised that this discrepancy was due to him "netting" members' dues, meaning that he excluded the portion of members' dues that is subsequently remitted by Local 590 to its parent organization as per capita taxes. The instructions for Item 23 require that the union report the amount of regular dues, fees, or other periodic payments which members must pay to be in good standing in your organization, along with the calendar basis for the payment (per month, per year, etc.)

2. 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 590 amended its bylaws in 2011, but did not file a copy with its LM report for fiscal year ended December 31, 2011. Local 590 has now filed a copy of its 2011 bylaws.

I am not requiring that Local 590 file an amended LM report for 2018 to correct the deficient items, but Local 590 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 590 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 sender.

Supervisory Investigator

cc: Mr. Adam Lutt, Treasurer